

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ADAM GRAY, )  
 )  
Plaintiff, )  
 )  
v. ) No. 18 CV 02624  
 )  
CITY OF CHICAGO, et al., ) Chicago, Illinois  
 ) May 9, 2023  
Defendants. ) 8:45 a.m.

TRANSCRIPT OF PROCEEDINGS - Trial

VOLUME 2-A

BEFORE THE HONORABLE EDMOND E. CHANG, and a Jury

APPEARANCES:

For the Plaintiff: LOEVY & LOEVY  
BY: MR. JONATHAN I. LOEVY  
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MS. JORDAN POOLE  
MS. ELIZABETH C. WANG  
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For the City Defendants: REITER BURNS, LLP  
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1 APPEARANCES (Continued):

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1 (Proceedings heard in open court. Jury out.)

2 THE CLERK: 18 C 2624, Gray versus City of Chicago.

3 THE COURT: All right. Good morning. Let's get  
4 appearances for today.

5 MR. LOEVY: Good morning, your Honor. Jon Loevy,  
6 Roshna Bala Keen, Elizabeth Wang, Jordan Poole here for the  
7 plaintiff.

8 MR. NATHAN: Good morning, your Honor. Shneur  
9 Nathan, Avi Kamionski, Neha Locke, Elizabeth Ekl, and Breana  
10 Brill here for the defendant officers.

11 THE COURT: All right.

12 MR. NATHAN: Natalie Adeeyo will be here in a moment.

13 THE COURT: Okay. All right. Is there anything to  
14 put on the record?

15 MR. LOEVY: Not from the plaintiff, your Honor.

16 MR. NATHAN: Yes. There's something we ask -- we  
17 would like to raise. We just received your Honor's ruling  
18 from -- regarding the certificate of innocence and the  
19 reasoning which, you know, did not address the hearsay  
20 argument that we made trying to keep out that COI. We'd like  
21 to have an opportunity to discuss that or file a supplemental  
22 brief on that.

23 THE COURT: Yeah, I don't think you need to file a  
24 supplemental brief. It is a -- I think it does qualify under  
25 803(8) as, in effect, a government report after an

1 investigation. And so I don't think the hearsay issue is an  
2 obstacle to its admission. That's overruled.

3 MR. NATHAN: There's one more issue we'd like to  
4 bring up.

5 MS. EKL: Your Honor, and I don't know if this is the  
6 appropriate time, but one of the first witnesses that  
7 Mr. Loevy indicated that he intends to call is Terri  
8 Mascherin. And the parties have a dispute over the scope of  
9 her testimony. So I don't know if you would rather wait  
10 until --

11 THE COURT: Yeah, we have a few minutes, so go ahead.

12 MS. EKL: Okay. Ms. Mascherin was disclosed by  
13 plaintiff near -- back in September 30th of 2019. And that  
14 was before one of the discovery cutoffs -- I'm sorry. The  
15 discovery cutoff was September 30th. She was disclosed on  
16 September 4th of 2019.

17 Plaintiffs had -- defendants had filed a motion to  
18 extend to take a number of depositions. This was in front of  
19 Judge Weisman on September 16th. And one of the issues that  
20 was raised at that time was that Terri Mascherin had recently  
21 been disclosed.

22 Plaintiffs filed a response to that motion for  
23 discovery extension, and they clarified in their motion that  
24 she was being called for a limited purpose. Sorry.  
25 Specifically they said, "Defendants claim they want to depose

1 one of plaintiff's post-conviction counsel from Jenner &  
2 Block, Terri Mascherin, but as plaintiff indicated when he  
3 sent that disclosure, Ms. Mascherin was only being disclosed  
4 as a witness because of the defendants' recent attempts to  
5 depose ASA Joe Magats," M-a-g-a-t-s, "Eric Sussman,"  
6 S-u-s-s-m-a-n, "and Fabio Valentini," V-a-l-e-n-t-i-n-i.

7           They attached an email that Ms. Wang had provided to  
8 defendants when she made the disclosure in which she said  
9 that, "In light of defendants' recent noticing of the  
10 depositions of Eric Sussman and Joe Magats, plaintiff  
11 supplements his Rule 26(a)(1) disclosures."

12           She went on to say in the motion, "but if defendants  
13 are going to disclose" -- I'm sorry. The actual disclosure  
14 itself states that she will be called as a witness as an  
15 attorney who represented plaintiff during post-conviction  
16 proceedings. She has knowledge of plaintiff's post-conviction  
17 proceedings and the circumstances of his exoneration.

18           So based on what they expressed in their disclosures  
19 about her intended testimony and based on further explanation  
20 in court that she was only going to be disclosed for a limited  
21 purpose, we did not -- we decided not to take her deposition.

22           Based on past experiences with post-conviction  
23 counsel in similar cases with Mr. Loevy, I questioned last  
24 night whether or not they were going to try to get into  
25 damages with Ms. Mascherin. I had actually initially

1 forgotten about the prior exchange. And they indicated that  
2 they do intend to get into talking about Ms. Mascherin's  
3 interactions with Mr. Gray during the time of the  
4 post-conviction proceedings.

5 And so it's our position that that qualifies as  
6 damages if she's going to get up and talk about things that  
7 she viewed about how he reacted to the post-conviction  
8 proceedings, her interactions with him during the  
9 post-conviction proceedings, how, you know -- anything about  
10 her feelings about him specifically, that that would be  
11 outside the scope of the purpose for which she's been  
12 disclosed.

13 THE COURT: All right. Response?

14 MS. WANG: Judge, the disclosure which Ms. Ekl read,  
15 that's what it says, but it's pretty broad. It says that she  
16 has knowledge of plaintiff's post-conviction proceedings and  
17 the circumstances of exoneration. Now, we disclosed her, it  
18 is true, in response to their disclosure of the ASAs who were  
19 involved in the post-conviction proceedings in the COI, but  
20 Judge Weisman granted their motion for a four-month extension  
21 of fact discovery.

22 They had every opportunity to take her deposition if  
23 they wanted to, and they chose not to. And they did take the  
24 depositions of Valentini and -- yes, of Valentini, and I think  
25 they chose not to take the deposition of Sussman. So they had

1 the opportunity. They filed a motion for extension. They got  
2 it. We disclosed her.

3 And it's not going to be lengthy testimony. She's  
4 going to talk about her involvement in representing plaintiff  
5 during the post-conviction and the COA, and then she's going  
6 to just -- it's going to be one or two questions about her  
7 interaction with plaintiff afterwards. It's not going to be  
8 extended testimony on that point.

9 THE COURT: That disclosure is not broad enough to  
10 cover damages. And given the context which generated the  
11 disclosure, you can't ask her about that.

12 And by the way, I think -- I'm not sure if your word  
13 speed record is close to Mr. Loevy's, not quite there, but if  
14 you could just try to slow your pace a little bit, especially  
15 for the jury's sake. Thank you.

16 MS. WANG: Thank you.

17 MS. EKL: And, Judge, just for the record, I was  
18 reading from the pleading that was docket No. 150.

19 THE COURT: All right. Thanks.

20 Okay. Is Mr. McInerney, he's taking care of his  
21 family issues today?

22 MS. ADEEYO: No, your Honor. He's in security. He's  
23 on his way up.

24 THE COURT: Oh, I see. Okay. So we won't bring out  
25 the jury until he gets here.

1 All right. Anything else?

2 MR. LOEVY: Not from plaintiff.

3 THE COURT: Okay. Do stick at the podium microphone  
4 for your openings. So if you want to adjust that a little  
5 bit, you can, but you've got to talk right into that  
6 microphone.

7 Okay. You can take seven minutes.

8 MR. NATHAN: Can we just practice with this document  
9 camera?

10 THE COURT: Yes.

11 (Pause.)

12 MR. LOEVY: Your Honor, can we get a quick  
13 clarification? There are some of plaintiff's photographs, and  
14 we believe that the plaintiff's exhibit was not admissible to  
15 show what he looked like when he was 13.

16 MR. NATHAN: I don't think there's any foundation as  
17 to when these photographs were, what age.

18 MR. LOEVY: He can testify --

19 THE COURT: Presumably Mr. Gray is going to lay the  
20 foundation, and if they don't, then opening statements are not  
21 evidence. But yeah, I did not --

22 MR. NATHAN: I thought we had talked about there's --  
23 there's a picture that was that picture that was attached to a  
24 letter that was used during an identification process --

25 MR. LOEVY: It was taken at Chester Mental.



1 MR. NATHAN: One second.

2 -- for Rebecca George. That one is, there's no  
3 problem with.

4 THE COURT: What's the exhibit number?

5 MR. LOEVY: It is Plaintiff's Exhibits 127, 128, and  
6 126, the second page.

7 MR. NATHAN: Just to clarify, there's no issue with  
8 Plaintiff's 126. It's just there's a picture of Plaintiff's  
9 128 --

10 THE COURT: That was allowed.

11 MR. NATHAN: 128?

12 THE COURT: Yes.

13 MR. NATHAN: Okay. Thank you.

14 THE COURT: All right.

15 (Proceedings heard in open court. Jury in.)

16 THE COURT: All right. Good morning, ladies and  
17 gentlemen. Yeah, your challenge for the next day will be to  
18 line up and come in smooth as silk and -- I'm joking. That's  
19 fine. You can come in however you like. And I hope you had a  
20 good evening.

21 And I'd like to just formally congratulate  
22 Ms. Garapolo's Blackhawks on getting the number-one pick in  
23 the NHL lottery. I think we're going to be seeing a lot of  
24 Connor Bedard jerseys in the near future.

25 Okay. We are ready for opening statements. As a

1 reminder, opening statements are just summaries of what the  
2 attorneys believe the evidence will show, so the statements  
3 are not themselves evidence. All right.

4 With that, for the plaintiff.

5 OPENING STATEMENT ON BEHALF OF THE PLAINTIFF

6 MR. LOEVY: Thank you, your Honor. May it please the  
7 Court, counsel.

8 Before I begin, I want to thank you. All of you have  
9 things going on in your lives, commitments, your lives.  
10 You've agreed to take a part from that and come here and  
11 participate in the jury system.

12 THE COURT: Mr. Loevy, take a step back towards the  
13 microphone. Thank you.

14 MR. LOEVY: Judge Chang spoke yesterday about how  
15 important the jury system is. It's really one of the greatest  
16 things about this country. If you believe your rights have  
17 been violated, if you've been victimized even by a powerful  
18 government official, you can come to court and get justice  
19 from your community.

20 A cross-section of your community decides what  
21 justice is. The police department doesn't decide. The  
22 government doesn't decide. Not even Judge Chang is going to  
23 decide this. You're going to decide, and it only works if  
24 people show up and participate. So we really do appreciate  
25 it.

1           As I said, my name is Jon Loevy. This is Roshna Bala  
2 Keen, Jordan Poole. This Elizabeth Wang, Melinda Ek. And  
3 here is Adam Gray. Adam is many things. He's a brother.  
4 He's a carpenter. He's a husband. He's married, but  
5 unfortunately, one of the most salient details about Adam Gray  
6 is he is a wrongfully convicted person. He spent 24 years in  
7 prison for a crime he didn't commit starting at age 14, really  
8 13. He was just a month past his 13th birthday. And he went  
9 to prison for a crime he didn't commit, and he spent 24 years  
10 in hell.

11           And I'm going to -- spoiler alert, I'm going to shoot  
12 to the end of the story, and I'm going to tell you it had a  
13 happy ending. His conviction was vacated. It was overturned.  
14 He got some good lawyers involved and some people who believed  
15 in him, and there was a reinvestigation and there was some new  
16 science involved. And the State's Attorney's office concluded  
17 that this conviction should not stand, and it was vacated.  
18 And that's not a common thing. But his lawyers and Adam took  
19 it one step further. He petitioned and received a certificate  
20 of innocence. Not just was he not guilty, he was declared,  
21 with the assent of the State's Attorney's office, innocent of  
22 this crime.

23           So if Adam is innocent, how did he come to spend 24  
24 years in prison for a crime he didn't commit? And  
25 unfortunately, that is a story of misconduct by the

1 defendants, members of the Chicago Police Department.

2 So let's back up now. Let me tell you Adam's story.  
3 He was born in '79. He grew up in the '80s in a neighborhood  
4 in Chicago called Brighton Park. He had a close family. His  
5 mother worked at a bank. She worked very hard, provided for  
6 the family. The father -- his father wasn't in the home, but  
7 he had the three siblings.

8 THE COURT: Actually, Mr. Loevy, let me interrupt  
9 you. I'll give you the time back like soccer time.

10 So just, ladies and gentlemen, I want to tell you two  
11 things with regard to the defendants. All right. So  
12 Mr. Percy Davis is no longer a defendant in the case. You  
13 must not draw any inference from the fact that Mr. Percy Davis  
14 is no longer a defendant.

15 Okay. And then second, I have authorized defendant  
16 Daniel McInerney to be periodically absent from the trial from  
17 time to time. So again, you should draw no inference from  
18 those absences. I have authorized them.

19 Okay. Mr. Loevy, please resume.

20 MR. LOEVY: Sure. So I was telling you about Adam's  
21 family. He had -- he was the youngest of three siblings. His  
22 older brother Dave, when Adam was pretty young, went to the  
23 Navy, joined the Navy, got an education in the Navy, became  
24 actually a physicist, has his own company, lives in  
25 California.

1 Dave's older sister -- or Adam's older sister, Lisa,  
2 went to college, got an advanced degree. She became -- she  
3 works for an international bank in London. She's going to  
4 come here from London and testify about Adam and their  
5 childhood. Adam's brother closest to him, Michael, he joined  
6 the Marines, and Adam will tell you about him too.

7 So they all grew up really in this four-block radius  
8 in Brighton Park. That was where Adam spent most of his life  
9 doing what kids do. He was hanging out with his friends. He  
10 had a lot of friends. A guy named Mel Gonzalez was his best  
11 pal, but there was Robbie. There was a girl named Kasey.  
12 There was a girl named Natalie, Denise, Eddie, Lori. You'll  
13 hear about some of the friends he grew up with. They were  
14 riding bikes, building forts, you know, doing what  
15 13-year-olds do.

16 He had a pretty big Nintendo phase, Legos, living his  
17 life. He's 14. He turns 14 in February of 1993. Now, that  
18 is, you know, an exciting, electric time in a boy's life  
19 because now they're getting ready to go to high school. He's  
20 talking to girls. Him and his buddy Mel met this new group,  
21 Natalie and Denise. They're spending a lot of time together.

22 He's getting ready for high school. He's going to go  
23 to Bogan High School. He's been accepted in the honors  
24 program. He's proud of that. He wasn't always a motivated  
25 student, but now he's getting a little more serious. He's

1 going to look at computers at Bogan High School. Everything  
2 is changing. Everything is exciting.

3           Screeching halt. It's all about to come to a  
4 screeching halt on March 24th, 1993, a normal weeknight. Adam  
5 has just turned 14. He's over at his best buddy Mel  
6 Gonzalez's house. He does that three, four nights a week  
7 during this particular time period because his older brothers  
8 had moved out, and he spent a lot of time with Mel. And it's  
9 a normal night. It's a school night. They do Legos. They're  
10 playing Nintendo. They do whatever kids do -- and he was a  
11 kid -- and go to sleep about 10:00 o'clock. And he's  
12 sleeping, and he's sleeping deeply.

13           Unbeknownst to him having nothing to do with him, in  
14 another part of the neighborhood, there's a fire. There's a  
15 fire in a three-flat building, you know, with a garden, a  
16 three-flat, standard Chicago three-flat. And it burns. And  
17 it's unfortunate. It's a big fire, and people die. People on  
18 the top floor don't get out and die.

19           Now, I will just say right here, right now, and I  
20 think it's going to be clear, fires happen. There's a lot of  
21 accidental fires, you know. There's bad -- these are old  
22 buildings. There's bad wiring. There's, people leave a space  
23 heater on. You know, there's, fires can happen in the  
24 kitchen. Fires can happen for all kinds of reasons. That  
25 doesn't mean that anybody tried to kill anybody. It's just a

1 fire.

2 So after the fire, the neighborhood, everybody,  
3 everybody in the neighborhood is out there, 20-plus people,  
4 all the, like, parents. You know, it happened in the middle  
5 of the night, 2:00, 3:00 in the morning, but the whole  
6 neighborhood files out, and everybody is crying and there's a  
7 dead person and they're screaming. It's very chaotic.

8 Now, where this went bad for Adam and for the police  
9 was one of the kids who lived in the building, a kid named  
10 Scott -- actually, his family lived in the building. He was  
11 in his mid-20s. He had moved out. And Scott was kind of a  
12 partier and a drinker and a rough kid, and he comes out and he  
13 hugs his mom.

14 And he looks up and there's Adam's mom and Adam's  
15 brother because remember, I said the whole neighborhood is  
16 there. So he sees Adam's mom and he says, "Boy, you'd better  
17 hope Adam didn't have anything to do with it."

18 Now, he doesn't know what he's talking about. He  
19 just says that. That's just words like, you know, it's a  
20 rough neighborhood in Brighton Park and, you know, he --  
21 there's a lot of fighting. It's tough. And he's making these  
22 accusations.

23 And Adam's mother and brother -- actually, his  
24 brother gets in a pushing match. "Don't say my brother did  
25 it. There's no -- you don't know what you're talking about.

1 My brother is not even here. He's sleeping."

2 So that's how it all starts, is that this guy makes  
3 this accusation. And, you know, and this neighborhood, as I  
4 said, it was a tough neighborhood. There's a lot of fighting.  
5 Adam laughs when he hears "a tough neighborhood" because this  
6 is the only neighborhood he knew, but this is the kind of  
7 neighborhood where you can beat up for stuff like that if  
8 somebody is going to make that accusation.

9 So his mother and his brother, you know, go pick him  
10 up at Mel's, bring him over to Michael's house. And it's  
11 about 4:00 in the morning because they don't want the mob to  
12 beat him up. And unfortunately, the wheels were in motion.  
13 Just because this kid said this, what followed was the worst  
14 police investigation of all time. The fire happens at 2:45.  
15 Fire trucks get there at 3:00 o'clock. I don't know what time  
16 the fire gets out but it's not much after 3:00. By 4:00  
17 o'clock, they're going to arrest Adam for murder, at 4:00  
18 o'clock.

19 And now, why did Scott say, "Oh, you'd better hope  
20 Adam didn't do this"? They were kids. Adam and Kasey for a  
21 time were best friends. They would play. Then they had a  
22 falling-out. Then they'd be best friends again, just normal  
23 kid stuff. And Kasey is going to testify and Adam is going to  
24 testify, normal kid stuff, you know. In fact, when they were  
25 actually friends was way before the fire. They had moved



1     apart from each other. So it was just a wild, baseless  
2     accusation.

3             3:00 o'clock the fire, Adam is arrested by 6:30 that  
4     morning. They have closed the case by noon. So the fire  
5     happens at 3:00 in the morning. Adam, they're going to arrest  
6     Adam before breakfast. They have closed the case by lunch.  
7     And it takes him 24 years to unwind what just happened to him.

8             They don't do any kind of investigation. And if they  
9     had, they would have realized it wasn't even an arson. The  
10    police department showed up, the bomb and arson department.  
11    They forgot to do the part where you pick through the debris  
12    and you look for wires. You go in the kitchen, you see if  
13    there's a grease fire. They didn't do anything like that.  
14    They never even went in. They just decided this is an arson.

15            And you're going to hear that they relied on science  
16    that has been outdated. At the time, firemen used to tell  
17    each other, "Oh, it looks like there's some real charring on  
18    the porch there. It looks really heavily burned. That must  
19    mean an accelerant."

20            And that was conventional wisdom, and they maybe even  
21    believed it in good faith. But science has moved on in the 30  
22    years since, and now everybody -- you know, you've heard about  
23    junk science in the courtroom. Now everybody understands,  
24    that doesn't mean anything. Fires burn hot. It does not mean  
25    what they thought it did. So if you get out a fire textbook,

1 it now says --

2 THE COURT: I'm sorry. Too fast?

3 THE COURT REPORTER: I'm sorry. I need to restart my  
4 computer.

5 THE COURT: All right. One moment.

6 (Pause.)

7 THE COURT: You can resume.

8 MR. LOEVY: Thank you, your Honor.

9 All right. As I was saying, worst police  
10 investigation of all time. They believe that it's an arson  
11 because, hey, look how burned it is. If you read the fire  
12 textbooks now, it says this is a myth. You can't tell arson  
13 because a fire burned hot. Fires burn hot for all kinds of  
14 reasons. So they form a false conclusion that this is an  
15 arson.

16 And they also jumped the gun because what they do is  
17 they believed that the fire had started on the porch by the  
18 stairs, and they gather up that fire debris. They gather up  
19 the fire debris, and they send it to the lab. And they expect  
20 the fire debris is going to show that there was an accelerant  
21 because their theory is that this was an arson. An accelerant  
22 is something, a liquid you pour to make a fire.

23 Adam is arrested by 6:30, a few hours later, but five  
24 days later the lab report comes back. It's negative for  
25 accelerant. There was no accelerant, but it's too late. Adam

1 has already been arrested and charged with murder.

2           So they jumped the gun. They formed a hypothesis  
3 that this was arson, and they formed a hypothesis that was  
4 wrong. Not only that, they formed a hypothesis that he did  
5 it, and they didn't investigate. I mean, if you're going to  
6 say it's an arson, that's one thing but just because some  
7 14-year-old supposedly, you know, didn't get along with one of  
8 the girls in the apartment, that doesn't make him guilty of  
9 murder.

10           They didn't investigate any other suspects, not one  
11 other suspect. There was a guy who lived in the first floor  
12 who got evicted. They didn't even look at him. Scott, the  
13 guy who pointed his finger, he had all kind of enemies. They  
14 didn't even look at anybody else. They just washed their  
15 hands of it, case closed.

16           When they arrested Adam, the arrest report says 6:30,  
17 so just a few hours after the fire, and it says Adam committed  
18 arson. He took gasoline, poured it on the back porch, and lit  
19 the fire. 6:30 in the morning, three hours after the fire.  
20 So then now after they've decided to arrest him and they go  
21 get him and arrest him, now they have to make the case. So  
22 they do it backwards. They don't make the case and then  
23 arrest him. They arrest him and make the case.

24           So they put 14-year-old Adam in an interrogation  
25 room, and they drill him, and they drill him, and they drill

1 him. And he tells them a thousand times, "I don't know what  
2 you're talking about. I didn't start a fire. I was sleeping.  
3 Can I go home? I don't know what you're talking about."

4 And a thousand times, they won't listen to him. And  
5 it turns out his mother's downstairs trying to get up there.  
6 They won't let her get up there. His brother is trying to get  
7 in. They won't let him get up there. And then after a while,  
8 they break Adam.

9 So what you're going to hear is that this is a case  
10 involving a false confession. I will tell you what you don't  
11 have to decide, is there such a thing as false confessions.  
12 It turns out they're very real, and you're going to hear about  
13 the science. It's sort of counterintuitive that you would  
14 confess to a crime you didn't commit, but there's now a lot of  
15 social science, research, empirical research studies, and it's  
16 actually a very disturbing phenomena. People confess when  
17 they're coerced with too much psychological pressure.

18 You're going to hear from a woman named Melissa  
19 Russano this week, and she's a scientist, social scientist who  
20 spent a lot of her adult life looking at this phenomena. And  
21 she's going to explain to you there is a such thing as false  
22 confessions. It happens. You're going to hear about a study  
23 with some very disturbing numbers. For example, the Innocence  
24 Project she's going to explain did a study with 368 false  
25 confessions, false convictions. So in other words, 368 cases,

1 someone gets convicted --

2 MR. NATHAN: Objection.

3 THE COURT: This is --

4 MR. NATHAN: Objection.

5 THE COURT: Basis?

6 MR. NATHAN: Can we do a sidebar?

7 THE COURT: All right.

8 (Proceedings heard at sidebar:)

9 THE COURT: All right. Go ahead.

10 MR. NATHAN: The objection is based on Mr. Loevy  
11 talking about other instances of false confessions.

12 THE COURT: This is, it's par for the course to  
13 discuss the underlying premise for the expert opinions, so the  
14 objection is overruled.

15 (Proceedings heard in open court:)

16 THE COURT: All right. The objection is overruled.

17 It's not a trial day until we've had a sidebar. Now  
18 we're official.

19 Okay. Mr. Loevy, you may resume.

20 MR. LOEVY: So Ms. Russano is going to explain to you  
21 her expert opinion, and she's going to tell you about the data  
22 she relied on, this study, the Innocence Project study, 368  
23 convictions where someone got convicted. The court system  
24 assumed they were guilty. They got convicted. They went to  
25 prison.

1           Then DNA happens, and 368 times they proved the  
2 conviction was false, proved beyond a scientific doubt. Like  
3 a rape case where it's, like, "You, raped me," "No, I didn't,"  
4 "You raped me," "No, I didn't," and then they get the DNA and  
5 they didn't. So there's no ambiguity in these 368 cases.  
6 They have been proved innocent.

7           And then the social scientists said, "We want to  
8 understand, you know, how wrongful convictions happen." They  
9 went back and looked at them. In 26 percent of those false  
10 convictions, there was a confession. You realize what that  
11 means? Of those 368 cases where they proved beyond a doubt  
12 the guy was innocent, in fully a quarter of them, they had  
13 managed to get the suspect to confess to the crime even though  
14 they didn't do it.

15           And in cases involving juveniles, teenagers, the  
16 numbers were even higher. Of those absolutely definitive  
17 proven innocent cases, one-third of the juveniles had admitted  
18 they did it when they didn't, and it was scientifically proven  
19 they didn't. So it is a real thing, and you'll learn about it  
20 over the course of this week, that false confessions happen.

21           Now, Dr. Russano is not going to tell you that this  
22 was or wasn't a false confession. That's not her role.  
23 That's your role. You'll decide if it was a false confession,  
24 but what she will do is tell you what the hallmarks of a false  
25 confession are, and she will say this is all the textbook

1 examples of a false confession.

2 For example, youth. I already alluded to age.  
3 Juveniles, and usually a juvenile being interrogated is 17,  
4 18, a juvenile, in Adam's case he's barely 13. He is a child.  
5 And juveniles are very susceptible to wrongful convictions --  
6 wrongful confessions. Why is that? They respect authority  
7 figures. They're easily intimidated. They're easily  
8 manipulated.

9 In scientific terms, their prefrontal cortex is not  
10 fully developed which means they rely more on their amygdala.  
11 It's, like, emotional decisions instead of reason. In people  
12 terms, that means they make dumb decisions. They don't think  
13 carefully. It's easy to manipulate them.

14 If any of you know a 14-year-old, and some of you do,  
15 many of you are parents, have a 14-year-old or someone who  
16 used to be, they are subject -- they're not as sophisticated  
17 as an adult. And they can be manipulated. And they can make  
18 bad decisions. And in this case, Adam got broken down and  
19 gave a false confession.

20 There's other hallmarks of a false confession here:  
21 Sleep. He got woken up in the middle of the night. He was  
22 discombobulated. They wouldn't let him sleep. He didn't eat.  
23 All day, he didn't eat. He was isolated. I told you, his  
24 parents -- his mother was trying to get in that room. His  
25 brother was trying to get in the room. The police would not

1 let them in the room, so he was in there isolated.

2 And they lied to him. And you're going to hear,  
3 nothing wrong with lying to a suspect. They're allowed to lie  
4 to suspects, but it was very confusing to Adam. It was very  
5 confusing when they're telling him, "People said you did it"  
6 and telling him that, "Hey, you can go home. All you got to  
7 do is say you did it, and we'll take you back to school."

8 He's working on his homework in between these  
9 interrogation sessions and they say, "All you got to do is say  
10 you had something to do with it. We believe you. Just say  
11 you had something to do with it. Just say you started the  
12 fire. We'll take you home." And they broke him down, and  
13 they broke him down.

14 Now, Melissa Russano is going to explain that it's  
15 like pressure. What you do to get a false confession is you  
16 build pressure on the person. And pressure has to release.  
17 So they're increasingly turning up the pressure on him.  
18 They're telling him, "You're not going to get out of here.  
19 There's no way out of this situation unless you tell us what  
20 we want to hear."

21 And after a while, eventually they broke him. And he  
22 believed them, that if he just said he had something to do  
23 with it, he could get out of this room and he could go to  
24 school. So he cooperated, and they got him.

25 And what they did next was they didn't go get the



1 court reporter. They rehearsed five times, six times, over  
2 and over for hours. They kept going getting this how they  
3 wanted it. He didn't know anything about it. He didn't know  
4 how this happened or even where or when, so they had to  
5 practice with him, and they did it in an insidious way.

6 Adam cannot explain to you how this happened. He is  
7 going to say, "Look, my 14-year-old self, I know I was  
8 tricked. I know I was manipulated, but I don't understand how  
9 anything of this happened" because it went over his head.

10 Melissa Russano, the expert, can explain to you how  
11 it happened. The way they do it is they feed you the false  
12 information. They do accusatory questions. They say things  
13 like, "Where did you get the gasoline, where did you get the  
14 gasoline, where did you get the gasoline," and then you start  
15 figuring out they're trying to talk about gasoline.

16 And they can tell you, "Hey, remember when you told  
17 us you dropped the milk jug in the alley?"

18 And he's like, "No."

19 And they're like, "Yeah," and then the police are all  
20 saying, "Yeah, yeah, you told us that."

21 They feed you facts. They suggest to you. "Where  
22 did you drop the alley -- you know, where did you drop the  
23 jug?" So they're feeding facts. They're practicing. Every  
24 time he would get it wrong, they would get mad at him, and  
25 they went over it, and they went over it, and they went over

1 it until they had it right," and the result was a false  
2 confession.

3 And they have an expert too, a guy named Barry Feld.  
4 Let's see if they call him because if they call him, he's  
5 going to agree, I am predicting, that this has all the  
6 hallmarks of a false confession. So I don't even know if  
7 they're going to call their expert.

8 Now, when they finally got the confession how they  
9 wanted it, they take the court-reported statement. And it's,  
10 frankly, pretty ridiculous. You know, it doesn't make sense.  
11 Adam is sleeping over at his buddy's house. He supposedly  
12 sneaks out of the house. If any of the Gonzalez family saw  
13 him, he would have been toast. You know, and there's all  
14 leading questions: Yes, yes, yes; no, no, no. They get very  
15 few details where he has to fill in the blank that they've  
16 been practicing with him.

17 But here's the really dirty part. Here's the  
18 insidious part. The police know some facts about the crime.  
19 Adam doesn't know facts about the crime because he has nothing  
20 to do with it. The facts the police knew and only the facts  
21 the police knew ended up in the confession, and they ended up  
22 to be false facts.

23 So, for example, the police believed at the time that  
24 the fire started on the back porch with somebody pouring  
25 gasoline down the stairs. And sure enough, that's what -- by

1 the time Adam gives that confession, that's what his story is.  
2 It turns out it's false. They get the lab reports. Nope,  
3 that didn't happen. So the police thought it was true, it  
4 ends up in Adam's confession, and then it turns out to be a  
5 false fact. That's not a coincidence.

6           Their other theory of the case was they went out and  
7 they found a milk jug. And here's some pictures of it. This  
8 is the little milk jug here. And this milk jug has been  
9 sitting out there a long time, as you can see. And the police  
10 smelled it and they said, "You know what, this smells like  
11 gasoline. I bet you Adam put gasoline with the fire in this  
12 milk jug."

13           So over the course of rehearsing and practicing,  
14 Adam, by the time he falsely confesses, is saying, "Fine. If  
15 you say so, I used a milk jug."

16           And then they took it to the lab, and you know what?  
17 There's no gas. There's no gas in the milk jug. So they had  
18 Adam confess that he took this milk jug, poured the gas down  
19 the stairs, dropped the milk jug exactly where they found it,  
20 and they pick it up and they say, "Aha, there's gas in the  
21 milk jug." Then they send it to the lab. There's no gas in  
22 the milk jug. There's no gas in the milk jug. So the  
23 confession, their theory ends up in Adam's mouth, and it ends  
24 up false.

25           So before that is sorted out, Adam is taken to the

1     Audy Home. And that is the juvenile jail. And Adam thinks  
2     he's going home. "You told me if I cooperated, said I started  
3     a fire, I could go home." He didn't go home. He's not going  
4     home for 24 years.

5             And his odyssey in hell was only just starting. He  
6     ends up at the juvenile jail. He's -- according to the arrest  
7     report, he's 5, 2, 110 pounds. At the juvenile jail there are  
8     teenagers, and there are tough kids, and there are angry kids,  
9     and there are maladjusted kids. And I personally believe all  
10    kids are good, and they are, but there's some tough kids and  
11    there's some mean kids, especially in juvenile jail.

12            And Adam was instantly a target. Adam was tiny. You  
13    know, these are big teenagers. Adam was 110 pounds. Adam was  
14    one of the youngest, if not the youngest person there. And at  
15    this place, people victimize. That's just the way it was.  
16    It's really sad. He's going to tell you about it. But people  
17    are trying to be tough so that they're not the victim, so  
18    they're always looking for somebody to pick on.

19            And this was a lot of kids from the Gangster  
20    Disciples and the Vice Lords and really tough kids. You know,  
21    there weren't a lot -- it was a racist system. He was one of  
22    the only white kids in the whole jail, and he was a target.  
23    He got picked on. "He got picked on" is a loose word. He got  
24    attacked. He got attacked constantly by children who saw him  
25    as a target. And he was attacked over and over and over

1 again, and he was beaten and he was choked unconscious. And  
2 there was people attempting sexual abuse. And he saw rapes  
3 and he saw horrible, horrible, horrible things, and he had to  
4 subject to that daily.

5 And he's getting increasingly upset, and nobody will  
6 help him and nobody believes him. "I'm innocent. I didn't  
7 start a fire. Why is this happening to me?" And it goes on  
8 and on and on.

9 And he has to fight for his life daily. And a lot of  
10 kids at the juvenile center are in and out, so there's  
11 turnover. He's there for years, and he is attacked. And he  
12 grows so hopeless because he didn't do anything, the world is  
13 so unfair that he tries to kill himself repeatedly.

14 And he gets increasingly sophisticated. He's cutting  
15 himself. He's trying to kill himself in different ways  
16 because, "I'm innocent. Why is this happening to me? Why am  
17 I being attacked every day? Why am I in this place? I'm  
18 supposed to be in school."

19 And he tries to kill himself. So when you try to  
20 kill yourself in the juvenile jail, eventually they send you  
21 to the mental health place. They sent him to the Chester Home  
22 for the Criminally Insane. Now, this is not where the kids  
23 who are insane go. This is the adult, IDOC. If you're in the  
24 Department of Corrections, you commit a terrible crime and  
25 you're insane, they send you to Chester.

1           They sent him to Chester. So he's out there on the  
2 yard. He's 14 years old and tiny with the criminally insane  
3 in Illinois, and he's got to fend for himself. And think  
4 about the insane people. It's unpredictable. People can  
5 attack you for no reason. And he gets attacked and people  
6 are -- people that have raped people are trying to attack him.  
7 And he fights back.

8           He's going to explain to you, when you're attacked,  
9 you must fight back. If you don't fight back, you're a  
10 victim. Somebody tries to take your cookies, you're a victim.  
11 You must fight back.

12           And Adam was a tough kid. I told you, it was a tough  
13 neighborhood. He had been in fist fights. His brothers used  
14 to fistfight him a little bit, but this is different. These  
15 are people trying to kill you when they fight you and try and  
16 take your eyes out, choke you out.

17           And Adam would get in fights, and they'd put him in  
18 punishment at Chester where he -- he'll tell you the story.  
19 They put him in restraints, leather restraints. His hands are  
20 leather. His feet, he's on a steel gurney with a blanket  
21 covering him, the kind you can't kill yourself with. And  
22 he's, like, in the home for the criminally insane thinking, "I  
23 didn't do anything. I didn't start any fire. What am I doing  
24 here? I'm 14 years old, locked on a gurney, and I should be  
25 in math class."

1           So that was very hard on Adam. And you know what,  
2 the interesting thing was the Chester Home for the Criminally  
3 Insane was a reprieve. That was better than living in the  
4 juvenile jail because at least in Chester, he was attacked  
5 less. And when they realized that Adam was not insane and  
6 that he didn't want to take the psycho med -- psychotropic  
7 medications, he didn't want to take those heavy drugs, they  
8 sent him back to the juvenile center, and that got worse for  
9 him.

10           He -- Adam went into what he calls his war phase.  
11 "Listen, I'm innocent. Nobody is listening to me. I refuse.  
12 I'm out. I opt out. I'm not participating." He stopped  
13 going to school, stopped eating. He was at war with the  
14 staff. It wasn't a mature thing to do. It wasn't the staff's  
15 fault, but the staff weren't listening to him.

16           So he just went into complete opposition mode. "I'm  
17 innocent. I'm not doing this."

18           And what do they do at the juvenile jail if you do  
19 that? They punish you. So they put him in segregation. He  
20 spent two years in solitary confinement, his 15th and 16th  
21 years, solitary confinement because nobody is listening to  
22 him. And he would act out because if you're a kid, you know,  
23 a 15-year-old locked in a room by yourself -- solitary  
24 confinement is a thing. It drives you batty. Humans are  
25 meant to be interactive. We're meant to interact. If you're

1 alone, for the first hour, it's tough. For the second hour,  
2 it's tougher. You know, you start going eight hours, day  
3 after day after day, it's psychological torture.

4 So he'd act out, and they'd punish him. And he'd act  
5 out, and they'd punish him. He tried to kill himself. And  
6 he's writing with blood on the wall and he's writing  
7 "innocent" on the floor. He is just completely, completely  
8 lost, all because he's being accused of something he doesn't  
9 understand.

10 And it's about to get worse for Adam because when you  
11 turn 17 in the juvenile jail, they send you to the adult Cook  
12 County Jail. Cook County Jail in the '90s, not a pleasant  
13 place. And it's full of adults. It's full of 24-year-old  
14 gang members, 30-year-old murderers. It's full of regular  
15 people, but it's full of dangerous people. And it's very  
16 hierarchical based on gangs, and he's in great danger.

17 And he's 17 years old. He's not -- he's bigger than  
18 he was when he was 13, but he's not that big. And he gets --  
19 on his 17th birthday, they put him on a bus. "Go fend for  
20 yourself among the adult prisoners." And again, he is a  
21 victim. He is attacked, and he is a victim.

22 He's getting ready for his trial. He spends five  
23 months in the County. They set a bond, \$35,000 to walk. He  
24 doesn't have 35,000. His family is paycheck to paycheck. It  
25 might as well have been 35 million. So he gets a public



1 defender, and the public defender tries to get him to take a  
2 plea. "You're looking at natural life." He won't take a  
3 plea. "No way. I didn't do it. I'm not pleading to  
4 anything. I'm not guilty."

5 So he gets ready for the trial. And I've already  
6 told you at the trial that they fabricated his confession, and  
7 that gets introduced against him, but they fabricated three  
8 witnesses. Let me talk to you about the three witnesses  
9 because Adam by the time at trial is saying, "I want a trial.  
10 I'm innocent." And the investigation got dirty.

11 The first witness, a woman named Brenda Thomas, who  
12 is Brenda Thomas? She's -- you're going to see her. She's  
13 going to testify by video. She gave a deposition in  
14 Minneapolis last month. We went and talked to her. She was  
15 then a 25-year-old woman working in the Clark gas station down  
16 the street. And in their theory with Adam and the milk jug,  
17 put gas into the milk jug and there was no gas in the milk  
18 jug, she was the one who supposedly was working there.

19 So they go over to the gas station and they say to  
20 her, she testifies, they say, "Hey, remember when you sold  
21 that boy gas a few nights ago and, you know, he paid for it  
22 and he put it in a milk jug?"

23 And she says, "I told them. I'm not a witness. I  
24 don't know what you're talking about. I'm not a witness. I  
25 don't want to be part of it. I'm not a witness." And they

1 wouldn't let it go, and they wouldn't let it go. And she  
2 said, "Look, this is what I do every day. I sold gas to a  
3 thousand people. I can't identify a photograph."

4 It's like if you had a waitress a couple weeks ago.  
5 You can't do that. You're going to hear from a social  
6 scientist who is going to explain, it's hard to actually  
7 pick pictures. But they wouldn't let it go. They put the  
8 pictures on the table. "Tell us who it is."

9 And she signed an affidavit. She says she tried to  
10 pick somebody. She picked the wrong person, and they told  
11 her, "Try again." So she tries again. "Ah, okay. Good."

12 And then they tell her, "Hey, listen, this kid burned  
13 down a building. You're an important witness. We need your  
14 help. You picked him out."

15 And she said, "I didn't want anything to do with it.  
16 I spent two years trying to stay away from them. I had my" --  
17 she said, in her words, "Those were my 'getting high' days."  
18 She was strung out. She had her own criminal cases. It was a  
19 cross-racial identification in the first place. She was  
20 black. He's white. And you're going to hear a social  
21 scientist say that's even harder to do.

22 And she said, "I don't want to do this," but they --  
23 a criminal trial, they subpoena her. She has to testify. She  
24 tells -- they have some preparation sessions. She has to tell  
25 the same story.

1           So we go depose her, and she tells the story I just  
2   told you. And then the City's turn to examine her, and they  
3   showed her her criminal testimony. "Isn't it true you said  
4   Adam did this? Isn't it true, isn't it true?" And she said,  
5   "Okay" --

6           THE COURT: One second.

7           MR. NATHAN: Objection. Just sidebar for one second.

8           THE COURT: All right.

9           (Proceedings heard at sidebar:)

10          THE COURT: All right. Go ahead.

11          MR. NATHAN: There was a motion in limine excluding  
12   the City. Reference to "the City" shouldn't be made right  
13   now.

14          THE COURT: Yes, just go back to "defendants,  
15   defense," that sort of thing.

16          MR. LOEVY: Got it.

17          THE COURT: Wait one second. You don't want me to  
18   highlight it any more, Mr. Nathan?

19          MR. NATHAN: No.

20          THE COURT: All right.

21          (Proceedings heard in open court:)

22          THE COURT: All right. You may proceed.

23          MR. LOEVY: So the attorney for the defendants shows  
24   her her criminal testimony. "Okay. Yes, I remember that. I  
25   remember that. I remember that. He bought \$2 worth of gas."

1 30 years later she's claiming to remember this.

2 And when it was our turn to ask questions, we're  
3 like, "How do you remember that? You just said you don't  
4 remember any of this."

5 She starts crying. She starts freaking out. She  
6 says, "Look, I don't want anything to do with this. I don't  
7 know what you're talking about. I'm not a witness. I tried  
8 to tell you I'm not a witness. I don't want to get in  
9 trouble. I don't want to be accused of perjury, of lying.  
10 Leave me alone."

11 And you'll see her, and you're going to believe her,  
12 that she too is a victim in this. She too is being  
13 manipulated to this day.

14 There's another witness, Kasey Paris, Adam's little  
15 friend. That's why they originally suspected Adam. Remember,  
16 I told you when he was 13, there was a time when him and his  
17 buddy Mel, the three of them were inseparable. They used to  
18 build forts, hang out. She was a tough kid. She liked to do  
19 what boys did, and they were friends and then they weren't  
20 friends and then they were friends.

21 And Kasey, by the time of trial, they told her, "Hey,  
22 Adam confessed to trying to kill you and your family, and now  
23 he's trying to get out of it." And she testified, and she  
24 became the motive.

25 Now, she has signed an affidavit. She has since

1 grown up. At the time, she was a child when she testified.  
2 She's grown up, and she says, "I was brainwashed." That's the  
3 word in the affidavit, brainwashed by the police. And she  
4 became the motive. So Adam and her were holding hands by --  
5 maybe spin the bottle. They were not lovers. She says, "We  
6 weren't even lovers by -- we weren't even girlfriend/boyfriend  
7 by child standards. Maybe we held hands and then we didn't."

8 But they take these letters where, you know, "I love  
9 you." And if any of you had to have your 13-year-old letters  
10 exposed to the world, you'd be embarrassed. It's not funny.  
11 But "I love you." And Kasey was driving a wedge with Mel,  
12 silliness, child stuff.

13 And she's going to tell you on the stand it was child  
14 stuff, don't blow it out of proportion, but back then, they  
15 turned it into Adam is a jilted lover. The letters he wrote  
16 were six months before the fire, and now they're trying to  
17 turn it into, he had to burn down this house in silliness.

18 And the letters and she's -- by the time of trial,  
19 she's exaggerating. She's saying, "Oh, he threatened me, you  
20 know, and he was going to -- he was a pyromaniac." She's  
21 going to testify, "No, no, no, not true, all exaggerated, kid  
22 stuff." So that's another example of kids being manipulated  
23 by adults.

24 The last witness against him is a woman named  
25 Kelly -- Karrie Kelly. She was a friend of Scott's. And you

1 don't have to remember all these names. It's like a TV show.  
2 You'll get the names later. You won't have to memorize them  
3 as we go. But Scott is the guy who originally caused the  
4 problem, and he's got a buddy named Karrie Kelly.

5 And when there's no evidence against Adam, all of a  
6 sudden Karrie Kelly becomes an eyewitness. Of all the crazy  
7 coincidences, Scott's friend claimed to be standing in the  
8 alley at 2:45 in the morning and see a kid run by. So Scott's  
9 friend is going to be an eyewitness.

10 Now, there was a police report where Karrie Kelly  
11 gave her story, and she said, you know, a kid in a black knit  
12 cap, black turtleneck, black pants, black shoes. So she gives  
13 a description of a kid wearing all black. And by the way,  
14 they don't find any all-black anywhere near Adam when they go  
15 to get him. But leaving that aside, she describes a boy  
16 wearing all black.

17 By the time of Adam's trial, it's not, "I saw a boy  
18 in the alley wearing all black." She says, "I saw Adam Gray  
19 in the alley." She changes it. Her story is, "I saw a kid  
20 wearing black" to, "I saw Adam Gray. She says, "I know Adam  
21 Gray. I took him and Kasey to Indianapolis -- or to Indiana  
22 for July 4th. He was in my car. I know who Adam Gray is, and  
23 I saw Adam Gray in the alley."

24 Can they do that? I mean, they did. She went from,  
25 "I was in the alley, I saw a kid" to "Oh, it was Adam Gray,

1 the kid I took to Indiana." They just let her change -- her  
2 testimony evolved. And she's going to testify too, and she's  
3 going to have to explain to you why her testimony evolved like  
4 that, and it's not going to be credible.

5 And you know what, she doesn't want to be here.  
6 She's going to be mad. She's going to be upset just like  
7 Brenda was, just like Kasey -- Kasey Paris is going to be mad.  
8 None of them want anything to do with it. It's not their  
9 case. And it's all fake, and it's not real.

10 You know, before Kelly -- Karrie Kelly gave her  
11 deposition, the attorneys for the defendants went and met with  
12 her, perfectly proper. They're allowed to interview the  
13 witnesses. They're allowed to. But they showed her her  
14 criminal testimony, and they showed her, "Here's what your  
15 answers were. Here's what your answers were. Here's what  
16 your answers were." And 30 years later, she has adopted it.  
17 Nobody wants to be accused of having testified falsely.

18 But you're going to have to -- when you view this  
19 evidence, that's the lens. They're trying to say, "Everybody  
20 testified in the criminal trial. You should accept that."  
21 The criminal trial is over. That conviction has been vacated.  
22 It's not credible. You're going to see the witnesses on the  
23 stand, and they're going to tell you, this is not real.

24 So that's the case against Adam and Adam is, not  
25 surprisingly, convicted. He's found guilty. He is sentenced

1 to natural life and sent to Stateville. He's sent to Joliet  
2 first and then Stateville.

3 Now, in Illinois he's now 17 years old. He's going  
4 into the Department of Corrections. A lot of 17-year-olds get  
5 tried as juveniles. He's tried as an adult, sent to  
6 Stateville. In Illinois if you commit a heinous crime, you've  
7 got to go somewhere, and you go to maximum security. So  
8 there's people who decapitate people. There's people who do  
9 terrible things to children. There's -- you know, the worst  
10 crimes in the state of Illinois, you go to max. You go to  
11 Stateville. That's where they sent Adam.

12 There's not, like, people who have drug crimes or  
13 robberies. It's, 90 percent are murderers. This is where  
14 he's going to spend his life. He's 17. He has no idea what  
15 they're talking about. He didn't murder anybody. He didn't  
16 start any fires. He's going to the IDOC.

17 And not only that, he is sentenced to natural life.  
18 You know what that means? You're never getting out. You're  
19 going to die in prison. A lot of times if you get sentenced,  
20 it's 40 years. A lot of times it's 90 years, but if you're  
21 good, we'll let out in 45 years. A lot of times you can get  
22 parole and go home.

23 Adam, they say, we just want you to understand right  
24 now. No parole. No good time. You will die in prison.  
25 That's what Adam got sentenced to. That's what the



1 17-year-old Adam had to go to the Illinois Department of  
2 Corrections and try to stay alive so he could die.

3 And so what is he doing here if he got sentenced to  
4 natural life? Well, it's an interesting story. When Adam was  
5 a kid, there was a teacher. A few nice people tried to reach  
6 him. You'll hear from them.

7 One of them was a young woman named Rebecca. She was  
8 21 right out of school, and she started, she had a project.  
9 She was going to write a book. And she went back, and she  
10 started writing letters to some of the people she had  
11 interacted with back at the juvie home. She was an art  
12 teacher. She tried art therapy and didn't quite reach him,  
13 but she reached out.

14 And a lot of the kids cooperated. Adam said, "Screw  
15 you. I was innocent. You didn't believe me. Leave me  
16 alone."

17 And she got intrigued, and she started looking more  
18 into it, and she started doing some investigating. You're  
19 going to hear that. She went and talked to the witnesses.  
20 She talked to Adam. She got really intrigued. And then she  
21 started to believe that there was a problem here. And lawyers  
22 got involved. And to make a long story short, you've already  
23 heard, the Cook County State's Attorney's office was persuaded  
24 to do a reinvestigation. You're going to hear from Terri  
25 Mascherin this morning. And they decided that the conviction

1 shouldn't stand.

2           So Adam was released, and he got that certificate of  
3 innocence. He went to his mother's home at age 38. His room  
4 was exactly as he had left it. His mother probably believed  
5 he was going to come home at 15, believed he was going to come  
6 home at 16. So he's still got his Nintendo. He's got his  
7 He-Man stuff. He's got his Legos. His room is right there.

8           And Adam had a hard time adjusting. You know, he  
9 didn't have an ID. He didn't have a life. He didn't have  
10 friends. He didn't own anything. He was paranoid. He'd sit  
11 in his room, look out the window waiting for the police to  
12 come get him. He couldn't sleep. It was hard.

13           And he tried to live his life. It's actually kind of  
14 sad. Remember, I told you he had that girlfriend Natalie  
15 before the fire. And it wasn't really a girlfriend but sort  
16 of knew her, and they were going to go to an eighth grade  
17 dance. He never got to go to the dance.

18           So here he is, age 38, he tries to date Natalie.  
19 She's the only girl he knows. They tried, and it didn't quite  
20 work because, you know what, Adam, you're not 14 anymore, new  
21 life. So that didn't work out.

22           But what did work out for Adam was Rebecca.  
23 Remember, I told you about the woman who got interested in his  
24 case and helped him reinvestigate it? They're seven years  
25 apart. When Adam turned 40, she's 47, so it's no longer an

1 age issue. And they had grown close. And there was a  
2 courtship period, and they fell in love and they got married.  
3 And she is the love of Adam's life, and they live together.  
4 And she is his best friend, and they're very close.

5 So they moved out of Adam's mother's home. They have  
6 a cabin in the woods far from people, no surprise. Nobody  
7 attacks Adam today. He is half a block away from anybody. He  
8 lives with his animals, and he tries to make a peaceful life.  
9 His wife has an art business on Zoom, and Adam does some  
10 carpentry. He does the frames and they're -- they're free.

11 But this is not the end for Adam. This is the final  
12 chapter. This is this lawsuit. He would like justice. He  
13 would like accountability. And that's why he's here to get  
14 the final closure.

15 So let me tell you a little bit about the claims in  
16 the case and the defenses. Adam is alleging that they  
17 violated his rights, the fabricated evidence, the fabricated  
18 witnesses. He's alleging that they withheld exculpatory  
19 information, that they didn't give him the whole story.

20 He's suing a group of Chicago police officers. Four  
21 of them are dead. They're still defendants, but they can't be  
22 here. And one of them is alive. He's in the courtroom,  
23 Mr. McInerney. And I'm not suggesting Mr. McInerney is the  
24 most culpable of the five. In fact, two of the other ones who  
25 are dead were more culpable in telling Adam, "You can go home

1 if you just confess." But Mr. McInerney is the one who's  
2 here, but he is also going to be found culpable. And those  
3 are the claims.

4 Now, I'm going to tell you a little bit about the  
5 defenses, and I just have a few more subjects. I'm almost  
6 done. But the defenses in the case, they're going to get a  
7 turn, and they're going to present you with the evidence that  
8 got Adam convicted last time. They're going to still be  
9 talking about the stuff that Adam got framed. They're going  
10 to talk about the testimony from 1996. And you're going to  
11 say "That's not credible" because that's all been rejected.  
12 The state's attorney doesn't stand by that conviction. And  
13 yet, they're going to come here and present you with that  
14 evidence, the discredited evidence.

15 You know, there was a lot of investigation in this  
16 case. There's supposed to be. This case, there was five  
17 years. It was nobody's fault that it took that long to get to  
18 trial but there was -- the judge read you a long list of  
19 witnesses. You're not going to hear from them, from all of  
20 them, but both the plaintiff and the defendants went back to  
21 the old neighborhood, interviewed everybody, turned over every  
22 stone.

23 And when they put up evidence, they're going to show  
24 you, you know, some little snippets, the letter,  
25 out-of-context letter. They're going to take statements out

1 of context from a letter. They're going to -- some guy, "Oh,  
2 I heard something." That's the absolute best they got, and  
3 it's nothing. They looked and they looked and they looked.  
4 There's no evidence Adam had anything to do with this fire  
5 because he didn't.

6 I want to just quickly comment on the standard of  
7 proof. This is not a criminal case. Nobody is going to  
8 prison. This is about justice between the parties. So  
9 because it's not a criminal case, there's no guilty beyond a  
10 reasonable doubt.

11 As you listen to the evidence, Adam has to prove more  
12 likely than not that his rights were violated. Is it more  
13 likely his rights were violated, or was it more likely they  
14 weren't? So as you listen to the evidence, you've got to  
15 decide "Which side am I believing" because you really do got  
16 to pick a side.

17 I mean, they can't both be true. If Adam didn't do  
18 it, then how did the police get him to confess with the exact  
19 facts that they thought were facts that turned out to be not  
20 facts? And I would submit to you when you're done, it's much  
21 more likely than not that Adam was framed and that his rights  
22 were violated and he suffered.

23 And that's going to bring you to the last issue in  
24 the case, which is damages. And Adam is going to be asking  
25 for compensation. You can't undo what happened to Adam. If

1 you could, we would, but that's not how it works. So in our  
2 jury system, you have to decide what's fair to make him whole.

3 Adam lost his 20s. He lost his teens. He lost his  
4 30s. Adam missed all of the life events. You know,  
5 fortunately his mother was still alive, but he had to watch  
6 her suffer and that caused him suffering. He didn't get to  
7 know his nieces and nephews. He wanted to have a family. He  
8 wanted to have children. His wife was too old to have  
9 children. He's not going to have children.

10 He lost so much, and so much has been taken from him  
11 but most of all, it was his sense of self. He's a resilient  
12 guy. He's a strong guy. You're going to like him. He's kind  
13 of intense as you would be too if you spent 20 years in the  
14 Department of Corrections, but he's a likable and a nice and a  
15 smart guy.

16 He's going to be able to explain to you in good terms  
17 what this did to him, and what it did to him was, to be an  
18 innocent person in prison for something you didn't do is  
19 different than if you're a guilty person. If you're a guilty  
20 person, you do the crime, you do the time. There's a  
21 consequence. You pay your price. That makes sense.

22 If you're an innocent person suffering and nobody is  
23 listening to you, it can drive you nuts because the world's  
24 not a fair place. "Why am I suffering if I didn't do  
25 anything?" If the world is not a fair place, that's not good

1 for humans. And Adam did his best. And he's here. And he's  
2 strong. And he's good. And he wants justice. And this is  
3 your opportunity to participate in that justice, and we  
4 appreciate you doing it. Thank you.

5 THE COURT: For the defense?

6 OPENING STATEMENT ON BEHALF OF THE DEFENDANTS

7 MR. NATHAN: May it please the Court, counsel, ladies  
8 and gentlemen of the jury. Good morning. Thank you for your  
9 attention throughout this case. Mr. McInerney and my --  
10 Mr. McInerney and counsel, we appreciate that attention.

11 As I said, my name is Shneur Nathan. I'm here with  
12 Avi Kamionski, Elizabeth Ekl, Neha Locke, Natalie Adeeyo, and  
13 Breana Brill. I represent a number of deceased police  
14 officers. Thankfully, we still have Mr. McInerney. Daniel  
15 McInerney is 81 years old today.

16 You heard a lot from Mr. Loevy about, they did this  
17 and they did that. It was all at this high level of  
18 abstraction. It's designed. But actually, he sued specific  
19 people and estates. He's making accusations against  
20 individuals.

21 You saw Percy Davis here yesterday, an 82-year-old  
22 man, a nice old man. You're going to hear from him on the  
23 witness stand. He's saying that Percy Davis fabricated a  
24 confession from Adam Gray. That's what he's saying. He  
25 didn't have the ability to -- I guess to say, "Hey, Percy

1 Davis fabricated that confession," but the evidence will show  
2 that Percy Davis didn't fabricate anything. He's a nice man  
3 who listened while Adam Gray gave a confession.

4 I also represent the estate of Nicholas Crescenzo, a  
5 retired and then deceased Area 1 violent crimes detective.  
6 Also he's suing Detective Michael Pochordo who I represent,  
7 bomb and arson Detective Ernie Rokosik, and bomb and arson  
8 Detective George Jenkins. These are real people. These are  
9 people who I'm going to go about this morning giving you a  
10 preview about the fact and details of the things that they  
11 actually did.

12 They're also suing a fire marshal, Joseph Gruszka,  
13 who went about his day early in the morning. And I'll talk  
14 about what he did. And he did a fire investigation and came  
15 to conclusions that were reasonable based on the time. And  
16 the evidence is going to show that he too did absolutely  
17 nothing wrong.

18 So let's talk about the actual facts, not the "they,"  
19 the "them," the innuendo, the abstraction. On March 25th,  
20 1993, at approximately 2:45 a.m., Timothy and Barbara Paris,  
21 they were sleeping with their teenage daughter in their  
22 apartment, a first-floor apartment located at 4139 South  
23 Albany in Chicago when a fire broke out.

24 You'll hear that Timothy Paris was completely blind.  
25 He was married to Barbara Paris who was almost completely



1 blind. She had just had 5 percent of her vision. They lived  
2 with Kasey Paris, their 15-year-old daughter, and their young  
3 adult son, Scott Paris or Scott Sondelski, who wasn't home at  
4 the time. They also lived there with their dog and their cat,  
5 Fluffy and Cornflake.

6 Barbara Paris, who had just gone to bed, heard the  
7 dog barking, and she heard someone walking up the stairwell in  
8 the back of her house and then coming down. She later  
9 described in her testimony that the back looked like the sun.  
10 She woke up Timothy Paris who made his way to the back and  
11 felt the door that it was hot. And they woke up Kasey who had  
12 a bedroom closest to the rear stairwell, and they went out the  
13 front.

14 They had neighbors who lived in the upstairs  
15 apartment, Peter McGuinness and Margaret Mesa, some elderly  
16 neighbors. They tried calling out to Peter and Margaret to  
17 try to wake them up, but it was too hot. There was too much  
18 smoke, and they got out.

19 Even though the fire department came within minutes,  
20 Peter McGuinness and Margaret Mesa were stuck on that second  
21 floor. Peter called out to the firefighters but he -- they  
22 couldn't get to him in time. Peter was taken to the hospital.  
23 It was too late for him. He died that night or that early  
24 morning. Margaret Mesa, she suffered longer. She died from  
25 burns and smoke inhalation after being transferred to two

1 different hospitals.

2           You'll hear from actually a friend, a neighbor of  
3 Adam Gray's family, William Rogers. He was one of the first  
4 people who made it to the fire scene. He happens to be a  
5 firefighter himself. He wasn't on duty. But when he got to  
6 that scene, he'll tell you that he smelled gasoline just like  
7 Barbara Paris did.

8           Fire Marshal Joseph Gruszka, who is deceased, as I  
9 said, arrived at the fire scene about 45 minutes later at 3:20  
10 a.m. to make a cause and origin determination. He inspected  
11 the scene. And contrary to what Mr. Loevy just said, he  
12 testified that he inspected the entire fire scene. He checked  
13 for any natural causes. That would be the simplest, easiest  
14 thing to do, but there were no reasons, natural reasons for  
15 this fire. He inspected to see if there was any natural gas  
16 problem. He inspected the wiring. There was none of that.

17           He determined that the fire engulfed the entire rear  
18 staircase of the building. Here, I'm showing you Plaintiff's  
19 Exhibit 217 for a moment. This is the back of the Paris home  
20 after it's been boarded up by fire. And I'm showing you Joint  
21 Exhibit 53. This is just a totally burnt-out staircase.

22           After Fire Marshal Gruszka finished his  
23 investigation, he determined that the fire had started in this  
24 back porch area and specifically determined that the ignition  
25 point of the fire was at the back staircase near the bottom of

1 the staircase. He also utilized something called a Sirchie,  
2 or a hydrocarbon detector that allowed him to inspect that  
3 scene and where it would buzz where hydrocarbons were. And  
4 that's where he would take samples to take to the lab.

5 Fire Marshal Gruszka's hydrocarbon detector had a  
6 very strong response by the first landing going up to the  
7 second-floor level which indicated to him that there was a  
8 possible presence of a liquid accelerant.

9 He did observe, like we can see in the exhibit in  
10 front of you, what's called heavy charring. And because of  
11 that blistering of the wood or alligatoring, they sometimes  
12 call it alligatoring, but he noted based on the science that  
13 was known to him at the time -- and that's going to be  
14 undisputed that that is what the fire science said at the  
15 time -- is that something that looks like what you're looking,  
16 this charring, comes from or is indicative of an accelerant.

17 Members of the bomb and arson unit also responded.  
18 That's Detective McInerney and his partners George Jenkins and  
19 Ernie Rokosik. Violent crimes Detective Nick Crescenzo was  
20 there as well.

21 Just moving forward to the front of the fire scene  
22 now, while the fire was still raging, neighbors came to the  
23 front of the scene to watch. One of the people who came out  
24 was Gertraud Gray, Adam's mother. As soon as she got there,  
25 Scott Sondelski, Paris' son, said, "I hope to f'ing god Adam

1 didn't do this." And there's going to be evidence that Scott  
2 got into a shoving match with Adam's brother who was out there  
3 at the scene.

4 Now, why did Scott Paris think that Adam probably did  
5 it? That's because Adam said that he would. The evidence  
6 will show that Adam threatened to kill Kasey Paris on multiple  
7 occasions over the months immediately preceding the fire.

8 The police were also told, and you'll hear from Kasey  
9 Paris, that a dead bird was left on the back porch, the very  
10 porch where the fire started. At one point before the fire,  
11 Adam Gray even told Kasey Paris, "The fire is coming."

12 The evidence will show that Adam Gray, in fact, was  
13 in love with Kasey Paris in December of '92 before this fire  
14 but that Kasey was not in love with Adam. She was in love  
15 with his best friend, Mel. That upset him. He's going to try  
16 to tell you that he didn't care about that, but Adam Gray's  
17 own handwritten notes which will be presented to you tell a  
18 different story. He says, quote, "If I can't have you, you  
19 can't have Mel." His notes, just to take one other example,  
20 he says, "I'll be waiting for you in hell."

21 The evidence will show that Adam Gray was also very  
22 well versed with fire: How to start fires, Molotov cocktails,  
23 little fire bombs out of former fireworks, that he had those  
24 stash houses where he would store his things throughout the  
25 neighborhood. Given this -- this background, these witness

1 reports, obviously, the police would want to talk to Adam. So  
2 Detective McInerney went to try to find Adam. He went just  
3 about a half a block away to Adam's house and asked his  
4 mother, "Hey, where is Adam? We need to talk to him."

5 She said, "Oh, he's not here. He's at Mel's house."  
6 And she tells, Mel's house is a few blocks away. And  
7 Detective McInerney and Ernie Rokosik, they go over to Mel's  
8 house to try to find Adam. Adam is not there. He already  
9 fled. And Adam's mom told them a different story.

10 So they go back. They go back to Adam's house and  
11 say, "Hey, he's not at Mel's house." So that's when Adam's  
12 mother Gertie says, "Oh, yeah, we actually took him to his  
13 brother's apartment at 3700 South Hermitage."

14 They say, so they say, "We need to talk to Adam."  
15 She says now he's over at this other place. The evidence will  
16 show that Gertraud didn't ask to go with the police or object  
17 to them interviewing Adam. She didn't really care much. She  
18 went to work.

19 Detectives Rokosik and McInerney, they did locate  
20 Adam at 3700 South Hermitage over at Michael's apartment, and  
21 that's where the evidence will show Michael brought Adam. And  
22 when Adam got there, he'll testify he's casually laid on the  
23 couch and smoked a couple of cigarettes.

24 There was -- they knocked on the door, and Michael  
25 Gray, Adam's brother, is going to testify that the Detective

1 McInerney and Rokosik asked if they can talk to Adam, and he  
2 said, "Sure. Adam, go with them."

3 He then had breakfast and then, Michael Gray, after  
4 having breakfast, he took a shower, and he took two buses to  
5 the police station, according to him. According to that story  
6 he -- after spending time at the police station, he takes two  
7 buses home and locates his mother who is not home and then  
8 gets a ride back to the police station.

9 They're going to claim that the mother was denied  
10 access to Adam during the time he was being interviewed by the  
11 police. Just based on the timeline I just told you, there's  
12 just no -- there was no time for that.

13 When Detective McInerney brought Adam to the police  
14 station at 51st and Wentworth, it was early in the morning.  
15 They were getting ready to go to court because that's part of  
16 what they do every day, is they do investigations and if  
17 sometimes then have to testify in court, court is at around  
18 9:00 in the morning, they have to get to court.

19 So Mr. McInerney went, put Adam into a squad room.  
20 He was not handcuffed. Adam Gray will tell you that every  
21 single interaction that he had with Mr. McInerney was  
22 pleasant, was fine, he was never handcuffed, never pushed,  
23 never shoved, never yelled at. McInerney then left and went  
24 to court.

25 At about 7:30 a.m., still just hours from the fire,

1 another person, an actual person, not a "they," a "them," a  
2 person, his name is Prosecutor James Brown. He came into the  
3 squad room where Adam was, and he introduced himself to Adam  
4 Gray. He told him that, "Hey, I'm a lawyer. I'm not your  
5 lawyer. I'm a prosecutor." And he gave the Miranda warnings.  
6 He then left.

7 At about 8:00 a.m., Youth Officer Davis, again who  
8 you saw yesterday, went in because that's what he's supposed  
9 to do. He's a youth officer. He's supposed to come in to  
10 spend the time together with the youth who needs to be  
11 interviewed. And his job, he's going to tell you, is to make  
12 sure that no one abuses Adam's rights. And from the time that  
13 he got there, he never left Adam until after the confession  
14 and made sure that no one ever abused Adam.

15 Youth Officer Davis, he gave Miranda warnings to Adam  
16 yet again. And you'll hear from Adam in this case that he  
17 actually received Miranda warnings about seven or eight  
18 different times.

19 The evidence will show that Youth Officer Davis is 82  
20 years old and has been retired for about 20 years. The  
21 evidence will show that he's a kind man who did his job, who  
22 took it seriously. He took that job seriously, and he made  
23 sure that Adam's rights were protected and respected.

24 Adam Gray, when he was initially interviewed by the  
25 prosecutor, ASA Brown, said that he was sleeping at Mel's

1 house and said that he never left until his mother and brother  
2 came. So he's saying he was sleeping from about 10:00 p.m.  
3 until his mother and brother come at 4:00 a.m. So he's --  
4 according to Adam's story, he's sleeping for six hours. So  
5 this suggestion that he didn't get any sleep can only be true  
6 if he started the fire. So if he didn't start the fire, then  
7 he got plenty of sleep.

8 But he says his alibi is that he's sleeping there.  
9 And could anyone corroborate that alibi? No. They ask Mel,  
10 "Hey, did you see if Adam left?"

11 Mel couldn't say because Mel said, "I was sleeping."

12 Unfortunately, Mel is deceased today, so you won't  
13 hear from him live. You'll hear, you may hear from his mother  
14 or his sister, but they too were sleeping, and they won't be  
15 able to tell you that Adam Gray couldn't leave.

16 But you will hear testimony from an eyewitness,  
17 Karrie Kelly. She saw Adam Gray running from the alley behind  
18 the Paris house shortly before the fire trucks came, showing  
19 Plaintiff's Exhibit 213. Karrie Kelly was leaving her  
20 fiancé's apartment in the morning, and she saw Adam Gray  
21 running from the area where that X is in the photograph which  
22 is by the fire scene northbound.

23 Where you see the KK, those are markings that Karrie  
24 Kelly actually put on that exhibit at the criminal trial in  
25 1996 in front of another jury showing where she was standing



1 when she saw Adam Gray. There's a streetlight right above  
2 that, well-lit spot right -- she'll testify that she was, when  
3 Adam Gray ran past her to the north, she was -- he was just  
4 about an arm's length away from her.

5 At 9:15 that morning, Karrie Kelly went to the police  
6 station and viewed a lineup, and she'll tell you that she  
7 actually knew Adam Gray because she spent about an hour  
8 driving with him just that past 4th of July. She drove him,  
9 Kasey Paris, and Scott in her car to Scott's father's house in  
10 Indiana, so she knew who he was. She just didn't know his  
11 name. And they drove back together as well.

12 She viewed this very lineup, Joint -- Plaintiff's  
13 Exhibit 205, and she identified Adam Gray at 9:15 a.m. After  
14 Karrie Kelly identified Adam Gray, Prosecutor Brown, Detective  
15 Crescenzo, and Youth Officer Davis went back to talk to Adam  
16 Gray and said, "Hey, we know a witness identified you. You  
17 don't have a good alibi. We know you did it."

18 And he confessed. He gave a very detailed  
19 confession. He told Prosecutor Brown that he did start the  
20 fire at Kasey's home. He left in the middle of the night,  
21 walked about two blocks to a Clark gas station, and he bought  
22 \$2 worth of gas from the Clark gas station, put it in a milk  
23 container, and walked the few blocks back to the Paris home.

24 The evidence will show that Adam Gray knew that home.  
25 He knew that back door was locked, and he said that in the

1 confession, that the back door was locked, that's how he  
2 got -- unlocked. I apologize. He knew that back door was  
3 unlocked, and that's how he got in.

4 He explained to the prosecutor, James Brown, that he  
5 went up the stairs just like Barbara Paris heard. He went up  
6 the stairs, went down the stairs pouring gasoline, and then  
7 lit it on fire from the bottom. He said that he went and ran  
8 northbound through this very alley where he said he saw  
9 somebody, and then he discarded the milk container. And this,  
10 we'll talk about this later, but the milk container was found  
11 right about here just on the path of flight.

12 Let me talk about a minute -- let me pause for a  
13 moment and talk about Adam Gray at the time that he gave his  
14 confession because Mr. Loevy, he at one point called him a  
15 tough kid, sometimes called him a kid doing kid things. But  
16 he wasn't a naive kid at the time that he spoke to the police.

17 The evidence will show that according to  
18 psychological testing that was done on Adam Gray very close in  
19 time to the fire, he had a performance score IQ in the  
20 superior range. He received the highest possible score on a  
21 subtest which measures abstract problem-solving, and the  
22 evidence will show that fewer than 1 in 100 adolescents would  
23 do as well on the subtest.

24 Now, why am I telling you how smart Adam Gray is?  
25 Because he wasn't easily manipulated. He was also extremely

1 independent. He traveled to Alsip by himself regularly, and  
2 he slept out of his house four to five nights a week. He knew  
3 how to fend for himself.

4 Removing any doubt whatsoever about whether Adam Gray  
5 confessed, he repeated this confession before a court reporter  
6 just like we have a court reporter taking down everything  
7 that's being said today. He repeated his confession in front  
8 of the court reporter named Janet Lupa, and she transcribed  
9 exactly what he said.

10 Present at that court-reported statement that Adam  
11 Gray gave was not just "they." It was a prosecutor, a lawyer,  
12 James Brown. It was Percy Davis who you saw yesterday. And  
13 showing you Plaintiff's Exhibit 170, you'll get to see the  
14 actual transcribed confession that he gave. It was signed by  
15 the prosecutor, James Brown, signed by Adam Gray, signed by  
16 Percy Davis, and signed by a Detective Pochordo dated March  
17 25th, 1993, 12:05 p.m.

18 This confession, in fact, says, Page 5, that he went  
19 to this Clark gas station at 41st and Kedzie. "What did you  
20 have in your hand?"

21 "I had a gallon."

22 "And when you got there, what did you do?"

23 "I gave the lady two bucks for a can of gas to fill  
24 up the can of gas."

25 "Fill up what with gas?"

1 "The gallon."

2 "Container?"

3 "Answer: Yes."

4 "And what did the lady that you gave the two dollars  
5 for the gas look like?

6 "Answer: She was a black lady."

7 And then he talks about how he went to Kasey's house,  
8 how did he know her.

9 This wasn't just yes answers like Mr. Loevy said.  
10 He's giving these details. In the transcribed statement, he  
11 admitted that he got into the Paris home through the door that  
12 was unlocked. He said, "Through the back door. It was  
13 unlocked. It doesn't lock. It was broken."

14 That's something he would know. He explained that he  
15 poured gasoline from the gallon, lit the fire, and ran away.  
16 He admitted that he ran past someone in the alley as he fled  
17 back to Mel's house. He admitted that he discarded the gallon  
18 container in the alley.

19 Then he was asked:

20 "Now, could you tell me why you did what you did with  
21 the gasoline?"

22 And he answers, "Because I wanted to kill her."

23 "Kill who?"

24 "Kasey."

25 In this very same statement he's asked:

1 "Have you been treated well by the police?"

2 He says, "Yes."

3 "Have you been treated well by myself, Assistant  
4 State's Attorney Brown?"

5 "Yes."

6 "Have you been given anything to drink?"

7 "Yes."

8 "What were you given to drink?"

9 "Soda and coffee."

10 "Have you been allowed to use the bathroom?"

11 "Yes."

12 "Are you under the influence of any drugs or alcohol  
13 at this time?"

14 "No."

15 And importantly: "Have you been forced to give this  
16 statement?"

17 "Answer: No.

18 "Question: Have you been promised anything to give  
19 this statement?

20 "Answer: No."

21 Ladies and gentlemen, when you look at the language  
22 of the confession, the details of the confession, and the  
23 facts of the confession that only Adam Gray knew, there's only  
24 going to be one reasonable conclusion, and that's that the  
25 confession was true and reliable.

1           Now, you're going to know that it was true and  
2 reliable because there's what we call corroboration of the  
3 confession. One of the ways you'll know is that it was  
4 corroborated by the person at the gas station, Brenda Thomas.  
5 So Adam confessed on March 25th, 1993, and said that he bought  
6 the gasoline from a black lady.

7           The very next day, the 26th, the police go to the gas  
8 station, the Clark gas station, and talked to Brenda Thomas  
9 who is a black lady. And she says, "Yeah, I did sell gasoline  
10 to a young man who walked up here on foot. He walked back  
11 northbound." And that makes sense. She then identified Adam  
12 Gray from a group of photos, four photos.

13           Now, you heard earlier Mr. Loevy talk about Rebecca  
14 George, Adam Gray's now-wife. She had been harassing,  
15 frankly, Brenda Thomas and her mom many, many times. And  
16 you'll hear during Brenda -- I'm sorry. Excuse me. You'll  
17 hear during Rebecca George's examination, she'll admit that  
18 she didn't care if she was going to harass people or not. She  
19 was going to do that because she wanted to get people to  
20 change their testimony from what they said in court in 1996.

21           And guess what? It worked. She got Brenda Thomas to  
22 be sick of dealing with her. But even after all the  
23 harassment that she did to Brenda Thomas, Brenda Thomas still  
24 even today says, "Yeah, I testified truthfully when I said at  
25 the trial that Adam Gray is the guy who walked up and bought

1 gasoline."

2 Now, she does live in Minnesota now and wants to move  
3 on with her life. And it's not surprising that she doesn't  
4 remember every single detail from her testimony last -- from  
5 27 years ago. And the evidence will show that Brenda Thomas  
6 had a difficult life over the last 30 years, difficulties that  
7 did include struggles with heroin abuse, but she's again  
8 always remained consistent, that she didn't get on the stand,  
9 on the witness stand in front of a jury like yourself and lie.  
10 She's saying, "I did not do that. I testified truthfully."

11 She, in fact, saw somebody walk up on foot, buy  
12 gasoline from her at the Clark gas station shortly before  
13 those fire trucks came. And the evidence will show that  
14 there's no way for Prosecutor Brown, Youth Officer Davis, or  
15 Detective Nick Crescenzo to know that before they even talked  
16 to Brenda Thomas.

17 You'll also know that the confession was true because  
18 Adam Gray himself says, "I'm the one who talked about this  
19 milk container, not the police, not the prosecutor. I'm the  
20 one who came up with that fact." And he's the one that said,  
21 "I discarded that milk container." And lo and behold, the  
22 police did find a milk container there.

23 In order to avoid this confession that Adam Gray has  
24 to admit that he gave including the details that he also  
25 admits he said, he's going to have to get some help, call a

1 friend. He's going to call a witness, Melissa Russano, who is  
2 a social psychologist, wasn't at the police station. And  
3 she's going to talk about confessions in general and people,  
4 that it's possible to have a false confession. She won't be  
5 able to tell you that this confession is false. She'll say,  
6 "I have no way of telling you if this confession is false."

7 MR. LOEVY: Objection, your Honor. That's not her  
8 role.

9 THE COURT: Overruled. The statement may stand.  
10 You can go on.

11 MR. NATHAN: And she will concede to you, just like  
12 I'm telling you, that a confession that has details with  
13 corroboration, that has hallmarks of reliability. That has  
14 all the hallmarks of a true confession.

15 Even the plaintiff's experts are going to tell you  
16 that given this context, the strong motive, it's obvious that  
17 the police are going to have to interview Adam. There's  
18 nothing wrong with the police interviewing Mr. Gray even  
19 though he was 14. The police didn't get to choose his age and  
20 didn't get to choose whether he was a suspect in this fire.

21 Adam Gray was convicted of arson and murder at his  
22 jury trial in 1996 at the criminal courts building at 26th and  
23 California. A jury just like yourselves listened to the  
24 evidence while it was fresh, evaluated the witness testimony:  
25 Karrie Kelly who saw Adam running through that alley right



1 past her, Brenda Thomas from the gas station. She was able  
2 to -- they were able to look at those witnesses, look them in  
3 the eye, assess their credibility, and they concluded that  
4 Adam Gray was guilty.

5           You'll learn in this trial that there was  
6 overwhelming evidence of guilt beyond a reasonable doubt that  
7 included Kasey Paris, the girl from the apartment, who said  
8 that Adam Gray was in a fight with her that very day before  
9 the fire. Their other friend Donald Dugard testified at that  
10 trial that Adam made many statements including this one, that  
11 he wanted to, quote, "kill the dirty bitch."

12           Barbara Paris testified that she heard those  
13 footsteps and smelled gasoline right before the fire, and  
14 Karrie Kelly made the identification. The prosecutor, James  
15 Brown, testified that he took that confession and that's what  
16 Adam Gray said. Brenda Thomas testified that she can confirm  
17 that confession because she was the person at the gas station  
18 who sold him the gasoline.

19           And Fire Marshal Gruszka testified that about his  
20 investigation as I talked to you before and about his  
21 conclusions which included the conclusions about the  
22 alligatoring. And I'll talk about that in a moment.

23           This overwhelming evidence led to the jury concluding  
24 Adam Gray was guilty, and he spent 24 years in prison. Did  
25 any police officer, any of the actual defendants who are being

1 sued here, decide whether Adam Gray was going to be charged  
2 by -- as an adult? No. That's not their call. Did any one  
3 of them decide what the appropriate sentence was for Mr. Gray?  
4 No. Again, not their role, not their -- they don't have the  
5 power to do that.

6 Did they decide how long he should spend in prison  
7 given the fact that he did kill two people, Margaret Mesa and  
8 Peter McGuinness? No, they didn't make that decision either,  
9 but the sentence that Adam Gray received was for crimes that  
10 he committed, and the amount of time he spent was something  
11 that the prosecutors and the courts determined.

12 The charges against Adam Gray were dismissed on May  
13 3rd, 2013. And you heard from Mr. Loevy that he was given  
14 something called a certificate of innocence. He's going to  
15 present to you like -- just like he did in his opening  
16 statement that, oh, because this happened, you don't  
17 have --you have nothing to do. Job's over. It's insulting.

18 You do have a very important job here. It's your job  
19 to decide what happened here. It's not just rely on what some  
20 document said. That certificate of innocence is not binding  
21 on you. It's decidedly not binding on you. Nothing in that  
22 document attributes blame to anyone, has nothing to do with  
23 whether Detective McInerney did anything wrong, whether George  
24 Jenkins, Ernie Rokosik, Nicholas Crescenzo, Michael Pochordo,  
25 or Fire Marshal Gruszka did anything wrong.

1           The document has no explanation as to why it's given.  
2   And your job in this case is not to decide why that document  
3   exists. You'll hear evidence in this case, and it's you and  
4   you alone who are going to be tasked with making a decision  
5   about the facts and the claims before you.

6           Now, we readily acknowledge, going back to that  
7   blistering, that at the time the prevailing understanding was  
8   that along the lines of what Fire Marshal Gruszka testified  
9   to. Heavy charring on the wood, that alligatoring or  
10   blistering, was -- at the time they believed it was proof  
11   positive that an accelerant was used. That's no longer true.  
12   Science evolved since 1993. That is not proof positive.

13           Does that mean that the whole analysis ends? Does  
14   that mean the confession never happened? Does that mean that  
15   Karrie Kelly didn't see what she saw? Does that mean that  
16   Brenda Thomas' testimony was false? Absolutely not.

17           It's true, that little piece of evidence, the fire  
18   science did change, and you're not going to hear anything  
19   different from us. But what you will hear is that, and the  
20   Court is going to instruct you, that the officers did not  
21   fabricate that evidence. They're claiming that evidence was  
22   fabricated. You're going to get a jury instruction saying  
23   they did not fabricate that evidence because there was no way  
24   for them to know about that.

25           The question in this case is not whether Adam Gray is

1 guilty beyond a reasonable doubt. The question in this case  
2 is whether defendant police officers had probable cause to  
3 believe that Adam Gray started that fire. The question is  
4 going to be, did they have an honest suspicion about this?  
5 Was it reasonable for them to think that Adam Gray probably  
6 started the fire such that a jury should figure it out?

7 Because the officers unfortunately are not on a  
8 mission. They don't know. They weren't there. All they have  
9 is the evidence, and they're supposed to present the evidence  
10 to the jury, and a jury like you can make that determination.

11 Was there probable cause for them to present these  
12 different statements and the suspicion to a jury? Absolutely.  
13 There was overwhelming probable cause. The plaintiff is going  
14 to try to avoid this very obvious conclusion by asserting that  
15 every single thing under the sun is fabricated. The witness  
16 statements are fabricated. Adam Gray's confession that he  
17 gave to a lawyer, prosecutor, that he gave to Percy Davis,  
18 fabricated.

19 But just calling things fabricated doesn't just wash  
20 them away. We're going to demonstrate in this case that the  
21 police officers, McInerney, Percy Davis, and the prosecutor  
22 James Brown, they didn't act with malice. There was no motive  
23 whatsoever to frame -- to frame Adam Gray. They acted because  
24 they had probable cause, and that was their job. They acted  
25 consistent with the information that was available to them.

1           Judge Chang instructed you yesterday that you should  
2 keep an open mind about the verdict, what that verdict should  
3 be, until you go to the jury room to decide the case. That's  
4 the way this process works because the plaintiff has the  
5 burden of proof. They have to prove everything that they're  
6 claiming or else we win.

7           And because they have the burden of proof, they get  
8 to go first. They put on all their evidence first. And you  
9 may spend -- and I'm sorry. You may spend two weeks where  
10 only the plaintiff gets to put on evidence, and we're going to  
11 be sitting there waiting for them to finish. And they'll  
12 probably call all of our witnesses too because that happens,  
13 and we'll -- but you're going to have to wait for us to tell  
14 our side of the story.

15           Please keep an open mind and know that there are  
16 always two sides to the story, and that's why I'm so  
17 appreciative that I have this opportunity to give you a  
18 preview of what we have -- what our evidence is going to show.

19           Mr. Loevy talked about the fact that the lab didn't  
20 show any evidence of an accelerant. That's really just going  
21 to be a total distraction. The lab -- the officers did take  
22 samples from the lab, they also took -- samples from the fire  
23 scene as well as the milk container, and they dutifully  
24 presented that evidence to the lab for testing.

25           And the results of that testing didn't show any

1 evidence of gasoline. And that was presented at the criminal  
2 trial, the original criminal trial. That didn't change.  
3 Nothing about that changed, but just because the test didn't  
4 definitively prove that there was gasoline doesn't mean that  
5 the fire wasn't started with gasoline.

6           You still had the evidence of people smelling  
7 gasoline. You had Adam's confession. It's kind of like the  
8 analogy of, if somebody walks down the hall and you walk and  
9 you -- they leave, they go in the elevator and you walk into  
10 the hall, it doesn't mean they didn't just walk down the hall.  
11 It means they're no longer in the hall. So the absence of a  
12 detectable gasoline in a lab test does not mean that gasoline  
13 did not exist at the time of the fire.

14           And you know what, you don't have to take my word for  
15 it, and you shouldn't. That's what the plaintiff's own expert  
16 is going to have to admit.

17           The bottom line regarding the testing that was done  
18 in this case is that the results were properly presented to  
19 the jury in 1996 and that it never meant very much. The  
20 evidence will show that the absence of detectable gas, like I  
21 just said, doesn't mean that Adam Gray didn't test the fire --  
22 didn't start the fire.

23           Even after all these years, you heard some  
24 speculation about, oh, maybe the fire was caused by someone  
25 else. You're going to hear no evidence of that whatsoever.

1 Even after all these years, you're going to -- the only thing  
2 you're going to hear is a confession from Adam Gray that he  
3 started the fire.

4 It's going to be plain that he did because Barbara  
5 Paris smelled the gasoline. Williams Rogers smelled the  
6 gasoline. The fire clearly started in the back of the  
7 building. I mean, that's going to be -- that's pretty clear  
8 and obvious. Karrie Kelly always maintained for the last 30  
9 years, despite Adam Gray's wife harassing her over many years,  
10 she never changed her testimony. And Adam Gray, of course,  
11 confessed.

12 At the close of the evidence, we're going to ask you  
13 to do the only just thing: To evaluate the actual claims in  
14 this case, the claims made against the specific people that  
15 were sued. We're not here saying that the entire criminal  
16 justice system is perfect, that the sentence was perfect. My  
17 clients didn't get to choose the sentence.

18 What we're saying is that my clients -- Detective  
19 McInerney, George Jenkins, Ernie Rokosik, Nick Crescenzo, and  
20 Michael Pochordo and Fire Marshal Gruszka -- were doing their  
21 job. They acted on probable cause, and they just presented  
22 the evidence to a jury. It's those facts, the actual facts,  
23 not just generalities, that you, ladies and gentlemen, are  
24 going to have to evaluate. And we're very confident that at  
25 the conclusion of you seeing the actual facts, you will render

1 the only just verdict, which is a verdict in favor of the  
2 defendants.

3 THE COURT: All right. Ladies and gentlemen, let's  
4 take our midmorning break. So we'll break until 5 to 11:00,  
5 and we'll start with testimony.

6 All rise.

7 (Recess from 10:37 a.m. to 10:55 a.m.)

8 (Proceedings heard in open court. Jury out.)

9 THE COURT: Let's go on the record.

10 MR. NATHAN: In Mr. Loevy's opening statement, he  
11 made several references about Adam doing what kids do, riding  
12 bikes and playing -- and building and playing with Legos.  
13 Repeatedly, he said doing what kids do, he's a 13-year-old  
14 kid. That, in our view, opens the door to showing -- to the  
15 defendants being able to rebut that he's not just doing what  
16 kids do. He's doing these things that are getting arrested  
17 and getting him to have encounters with the police.

18 In addition to that, just separate, it's also the  
19 arrests are relevant to his state of mind during that  
20 interrogation. So it's not just, the arrests aren't just  
21 relevant to whether the officers knew about the arrests for  
22 purposes of probable cause. It goes to whether Adam at 14  
23 years old was sophisticated enough during his interactions  
24 with the police to understand the situation, understand that  
25 it's serious, or based on those interactions think it's not



1 serious because he got away with it multiple times.

2 And because of the coerced confession claim, those  
3 arrests, in our view, are independently relevant but besides  
4 for that, given that Mr. Loevy's portrayed -- has portrayed  
5 Adam as just a kid riding bikes, playing with Legos, we think  
6 he opened the door to the arrests.

7 THE COURT: Okay. Quick response?

8 MR. LOEVY: Your Honor, we said he's a tough kid in a  
9 tough neighborhood. He was getting in a lot of fights. His  
10 direct is going to make clear that he's not claiming to be  
11 some angel. He was fighting.

12 The question is, should you bring in that he got  
13 arrested, and you already ruled on that, is that the relevance  
14 to this case that he's been arrested because he's  
15 sophisticated was insufficient to outweigh the prejudice.

16 THE COURT: Right, yeah. It's -- so the rules of  
17 evidence guard against good character evidence. I don't think  
18 that that is the purpose of the evidence. It's to show what  
19 he lost out on due to the alleged misconduct of the  
20 defendants, and so it goes to damages, and so there's actually  
21 relevancy theory there.

22 And then the reverse, though, is it's much more  
23 dangerous with regard to bad character evidence, and I think  
24 that is the risk that we have to avoid. And so there is just  
25 a magnitude of difference between allowing the arrests in and

1 the encounters in with the police from which the jury might  
2 draw the -- might very well draw the incorrect bad character  
3 inference.

4 And then the flip side of that, with respect to the  
5 confession and the circumstances of that interrogation, it's a  
6 magnitude different from the prior encounters with the arrest.  
7 So it doesn't have sufficient probative force to show that he  
8 would be able to navigate the ins and outs of the -- that  
9 murder investigation interrogation.

10 All right. Objection is overruled.

11 Who is up first?

12 MR. LOEVY: Terri Mascherin. Do you want her on the  
13 stand?

14 THE COURT: Yes. Why don't you go ahead and have her  
15 come in. Oh, all right. There she is.

16 Yes, please have a seat.

17 Are you going to be displaying from your laptop?

18 MS. WANG: We don't have any exhibits with her.

19 THE COURT: Okay.

20 (Proceedings heard in open court. Jury in.)

21 THE COURT: All right. Please be seated.

22 All right. It didn't even take a day. You were all  
23 lined up. Great. Congratulations on that.

24 We are ready for the first witness. Go ahead and  
25 announce the witness, please.

1 MS. WANG: Terri Mascherin.

2 THE COURT: Okay. And, Ms. Mascherin, please stand  
3 up for a moment and raise your right hand.

4 (Witness sworn.)

5 THE WITNESS: Yes, I do.

6 THE COURT: All right.

7 Okay. Ms. Wang?

8 TERRI MASCHERIN, PLAINTIFF'S WITNESS, SWORN

9 DIRECT EXAMINATION

10 BY MS. WANG:

11 Q. Could you please state your name and spell it for the  
12 record?

13 A. Yes. It's Terri, T-e-r-r-i, the last name is Mascherin,  
14 M-a-s-c-h-e-r-i-n.

15 Q. What do you do for a living?

16 A. I'm a partner with the law firm of Jenner & Block and one  
17 of the co-chairs of the litigation practice there.

18 Q. Okay. And what kind of law do you practice?

19 A. Most of the time I practice commercial litigation, all  
20 sorts of business disputes, but throughout the course of my  
21 practice, I have also had occasion to get involved in a number  
22 of criminal defense engagements and criminal post-conviction  
23 including in capital cases.

24 Q. And what kind of law firm is Jenner & Block?

25 A. It's a 500-plus lawyer firm with offices in a number of

1 cities in the United States and in London.

2 Q. How long have you been practicing law?

3 A. Since 1984.

4 Q. Can you tell us a bit more about the kind of pro bono  
5 cases you have handled?

6 A. Beginning at the very start of my practice, I got involved  
7 in criminal defense pro bono work. I handled two cases on  
8 behalf of inmates who were on death row in Illinois at the  
9 time and did a Georgia death penalty case. And since Illinois  
10 abolished the death penalty, I have been involved in  
11 representing several individuals who have claimed that they  
12 were wrongfully convicted or wrongfully charged. Most of the  
13 criminal cases I've done have been murder cases.

14 Q. Does Jenner & Block get a lot of requests for pro bono  
15 assistance?

16 A. Constantly, yes.

17 Q. And how does Jenner decide what cases to take, what pro  
18 bono cases to take?

19 A. We have a pro bono --

20 MS. EKL: Objection, Judge.

21 THE COURT: Yeah, let's take a quick sidebar.

22 (Proceedings heard at sidebar:)

23 THE COURT: All right. Go ahead and articulate the  
24 objection.

25 MS. EKL: Judge, the defense objects based on

1 relevance and also that she's a -- bolstering this witness'  
2 testimony.

3 THE COURT: Okay. Response?

4 MS. WANG: It's just --

5 THE COURT: Can you get to a mike actually?

6 MS. WANG: It's just background information about the  
7 kind of cases that they take.

8 THE COURT: Yeah, I think you've already established  
9 that and what her pro bono categories are. Going further on  
10 this is like a good character-type bolstering, and getting  
11 into the screening processes of Jenner or Ms. Mascherin is not  
12 permitted. So why don't you go ahead and accelerate to the  
13 facts of this case.

14 MS. WANG: Okay.

15 (Proceedings heard in open court:)

16 THE COURT: All right. The objection is sustained.  
17 The last answer can stand, but go ahead and move on, please.  
18 BY MS. WANG:

19 Q. All right. Did Jenner & Block decide to take Adam's case  
20 pro bono?

21 A. Yes.

22 Q. And could you explain what happened -- before we talk  
23 about your involvement in Adam Gray's case, could you just  
24 give a little bit of information about what happens in a  
25 criminal case after a criminal defendant is tried and

1 convicted?

2 A. Sure. After conviction, the defendant has a right to take  
3 an appeal to the Illinois Appellate Court, sometimes also the  
4 Illinois Supreme Court, and sometimes a petition for  
5 certiorari to the United States Supreme Court.

6 After that, there's an Illinois statute that allows  
7 someone who believes that there's new evidence that wasn't  
8 available at the time of the trial or wasn't presented by  
9 trial counsel at trial to bring what's called a  
10 post-conviction action which is a separate case in the  
11 criminal court that challenges either his or her conviction or  
12 sentence or both based on this new evidence that either wasn't  
13 available at the time of trial or wasn't used by trial  
14 counsel.

15 Q. And in your experience litigating these cases, is it easy  
16 or common to get post-conviction relief?

17 A. It is uncommon.

18 MS. EKL: Objection, your Honor.

19 THE COURT: Okay. The objection is sustained, so the  
20 jury will disregard the last answer.

21 Next question.

22 BY MS. WANG:

23 Q. When did you become involved in Mr. Gray's case?

24 A. December of 2013.

25 Q. How did you become involved in his case?

1 A. My partner Doug Rees was -- had been supervising the case.  
2 He was leaving to take a job with the Illinois Attorney  
3 General's office and asked me if I would step in and be the  
4 partner supervising the case.

5 Q. Could you tell us a little bit about Jenner's  
6 investigation into Adam's case?

7 A. Sure. Jenner had -- Jenner & Block had conducted an  
8 independent investigation into the case, had discovered  
9 some -- through FOIA requests, Freedom of Information Act  
10 requests, some information that hadn't been provided to  
11 defense counsel by the police at the time of the trial. They  
12 --

13 MS. EKL: Objection. Foundation.

14 THE COURT: All right. Let's take a sidebar.

15 (Proceedings heard at sidebar:)

16 THE COURT: Okay. Are you just trying to lay some  
17 background for getting to the filing of the certificate or --

18 MS. WANG: Yes. And she'll -- I'll ask her about  
19 what's in the petition and then the petition, what happened  
20 with it and the COI.

21 MS. EKL: Judge, the defendants' argument is that  
22 she's now trying to get into things that she's claiming  
23 weren't provided to him by the police department. And this is  
24 far outside the scope of what's in the petition and what was  
25 included or not included in a response to a FOIA request.

1 MS. WANG: Judge, he had allegations in his petition,  
2 and she summarized it.

3 MS. EKL: That was not the context in which the  
4 question was asked.

5 THE COURT: Look, right now it's at a high level  
6 enough of a generality that it is just the background steps  
7 leading up to the filing of the petition. So the objection is  
8 overruled, but you do need to just move on and get to that  
9 petition.

10 MS. WANG: Okay.

11 (Proceedings heard in open court:)

12 THE COURT: All right. The objection is overruled.  
13 The last answer can stand. And you can move on as discussed.

14 BY MS. WANG:

15 Q. Did you argue in your petition that Mr. Gray was entitled  
16 to a new trial?

17 A. Yes, we did. We argued that he was innocent and that  
18 there was new evidence, particularly with respect to the  
19 testimony and the physical evidence that had been presented at  
20 trial to the effect that the fire that took place was an  
21 arson.

22 There was new scientific evidence. There was also  
23 new evidence in the form of witness testimony because a couple  
24 of the witnesses who had testified that they had identified  
25 Adam at the time or had attributed certain statements to Adam



1 at the time of the fire had changed their testimony and had  
2 said that they had been pressured into giving the testimony  
3 that they had given at the trial.

4 Q. Did you have other Jenner lawyers working with you on  
5 Mr. Gray's case?

6 A. Yes, we did. There were over time a number of lawyers who  
7 worked on it, but the person I worked most closely with was  
8 then an associate named Brij Patnaik.

9 Q. And what was your primary role on the team of lawyers  
10 working on behalf of Mr. Gray?

11 A. I supervised the case overall. I handled most of the  
12 court appearances after I became involved. I also met with  
13 the Assistant State's Attorneys and the conviction integrity  
14 unit of the attorney -- of the State's Attorney's office to  
15 try to persuade them that they should drop the charges and not  
16 pursue the case any further.

17 Q. And the court system is sometimes described as an  
18 adversarial process. Could you explain what that means?

19 A. Yes. The State was represented in the post-conviction  
20 proceeding by a woman named Celeste Stack who was a very  
21 strong advocate, and she moved to dismiss the petition. She  
22 tried to get rid of basically the whole case. She argued that  
23 there was no basis for the claim, and she did her -- you know,  
24 she presented her own evidence that she had developed through  
25 investigation to the court to try to persuade the court to

1 dismiss the whole petition and to reject the claim of  
2 innocence.

3 Q. And did the State eventually -- what position did the  
4 State take after it did its own investigation?

5 A. After investigating the case and after we met with the  
6 conviction integrity unit concerning their investigation, the  
7 State decided that they would agree that Mr. Gray was entitled  
8 to a new trial, that the scientific evidence that we had  
9 presented showed that there -- that the evidence of arson that  
10 was admitted at the original trial was no longer viewed as  
11 being scientifically sound and that if they were to try to  
12 retry the case based on that same evidence, it would not be  
13 admissible. And so the State agreed with us that Adam should  
14 receive a new trial.

15 Q. Did the State eventually agree to dismiss all the charges  
16 against Adam?

17 A. Yes. They eventually agreed sometime later that in  
18 addition to a new trial, they should simply -- they believed  
19 it was most appropriate that the charges simply be dismissed  
20 and that the court enter an order that's called an order of  
21 nolle pros, which means essentially that all charges are  
22 dismissed and Mr. Gray could not be prosecuted again for the  
23 alleged crimes.

24 Q. And do you recall when the charges against Adam were nolle  
25 prossed, or dismissed?

1 A. In May of 2017.

2 Q. And was Mr. Gray released from prison at that time?

3 A. Yes, he was.

4 Q. After the State dismissed the charges, was the case over,  
5 from your perspective?

6 A. No. We filed what's called a petition for issuance of a  
7 certificate of innocence which is a proceeding that you can  
8 bring to ask the court to do an independent review and to  
9 decide based on the evidence that Mr. Gray was innocent of the  
10 crimes that had been charged so that he could have his  
11 criminal record cleared so that if he applied for a job or  
12 something like that, the employer would not see on his record  
13 that he had ever been charged with or convicted of these  
14 offenses.

15 Q. And what was the State's position to the petition for  
16 certificate of innocence?

17 A. The State agreed that the certificate should be issued.

18 MS. WANG: Let's -- I'm going to show you Plaintiff's  
19 Exhibit 95, Page 3.

20 THE COURT: All right. Any objection other than  
21 previous ones?

22 MS. EKL: No, your Honor.

23 THE COURT: Okay. It's allowed over the prior  
24 objections.

25 (Plaintiff's Exhibit 95 received in evidence.)

1 BY MS. WANG:

2 Q. I'm showing you Plaintiff's Exhibit 95, Page 3. Are you  
3 familiar with this order?

4 A. Yes, I am.

5 Q. And what is it?

6 A. It's the order that the court entered in February of 2018  
7 granting a certificate of innocence to Mr. Gray.

8 MS. WANG: Thank you. No further questions.

9 THE COURT: All right. Cross-examination?

10 CROSS-EXAMINATION

11 BY MS. EKL:

12 Q. Good morning, Ms. Mascherin.

13 A. Good morning.

14 Q. I just want to take you back a little bit just to kind of  
15 explain to the jury the process that got to your involvement  
16 in Mr. Gray's case. You indicated that criminal defendants  
17 are entitled to an appeal after they're convicted, correct?

18 A. That's right.

19 Q. And was it your understanding that Mr. Gray had, in fact,  
20 appealed his conviction for the murder of two people and that  
21 that conviction had been upheld before you got involved?

22 A. Yes, that's right. That's why we filed a post-conviction  
23 petition.

24 Q. And you mentioned that criminal defendants also have the  
25 right to seek relief from the next higher court, which would

1 be the Illinois Supreme Court, correct?

2 A. They have -- they have the right to seek relief. They're  
3 not guaranteed another appeal.

4 Q. Correct. And Mr. Gray in this case, he filed a petition  
5 for leave to appeal to the Illinois Supreme Court, correct?

6 A. I don't remember. It's quite possible that he did.

7 Q. You have no information that he was ever granted any  
8 relief by the Illinois Supreme Court, correct?

9 A. That's correct.

10 Q. And in the next phase, a criminal defendant can seek  
11 relief through this post-conviction process through the  
12 statute that you referenced, correct?

13 A. Yes.

14 Q. And in this case, you got involved after the  
15 post-conviction proceedings had been going on for a while,  
16 correct?

17 A. That's right, yes.

18 Q. There were other attorneys in addition to Jenner & Block  
19 that were working on the case on behalf of Adam Gray during  
20 the post-conviction phase, correct?

21 A. Yes. We had co-counsel from the University of Chicago.

22 Q. And that included a person by the name of Tara Thompson?

23 A. Yes.

24 Q. And she is a person who formerly worked for the law firm  
25 that currently represents him, correct?

1 A. Well, she was -- my understanding was that she was  
2 co-counsel with us in her role as an instructor at the  
3 exoneration clinic at the University of Chicago Law School --

4 Q. And she used --

5 A. -- which I believe is managed by the Loevy firm.

6 Q. Okay. She worked both places at the same time, correct?

7 A. That's my understanding, yes.

8 Q. Okay. Prior to your involvement, is it fair to say that  
9 there was an extensive investigation done by another  
10 individual on Mr. Gray's behalf by the name of Rebecca George?

11 A. I know that Ms. George did some investigation. I don't  
12 know how extensive it was.

13 Q. Okay. Were you -- at some point in time, did you review  
14 any memos or affidavits or speak to Ms. George about any of  
15 the investigation that she conducted?

16 A. I reviewed several affidavits that she collected from  
17 witnesses. I believe I've only had one conversation with her,  
18 and I don't recall it being substantive, about her work.

19 Q. And did you understand how it was that Rebecca George came  
20 to be involved in Mr. Gray's case?

21 A. I was told that Ms. George had met Adam when Adam was at  
22 the Audy Home after he'd been arrested, that she was either  
23 teaching there or volunteering there and that she had taken an  
24 interest in him and in his case and had started doing some  
25 investigation on her own out of her belief that Adam was

1 innocent and her desire to try to help him if she could.

2 THE COURT: Let's take a sidebar.

3 (Proceedings heard at sidebar:)

4 THE COURT: All right. I did limit substantially  
5 Ms. Mascherin's testimony and tried to keep it focused on  
6 what's at issue and what she would have personal knowledge of.  
7 So I think this is outside the scope of her direct testimony  
8 and wouldn't otherwise be something that you would elicit or  
9 be able to elicit by calling her.

10 MS. EKL: I'll move on.

11 THE COURT: Are you done with the Rebecca George?

12 MS. EKL: Other than just to say that she reviewed  
13 the investigation and that investigation was presented to the  
14 judge in the post-conviction proceedings. I had not intended  
15 to elicit the things she's now gone on to say about -- I just  
16 asked generally what her involvement was, how she got  
17 involved, but I'll move it along. And I can ask leading  
18 questions to get us where we need to be.

19 THE COURT: Yeah, so what's your next question then?

20 MS. EKL: Just that Rebecca George's investigation  
21 was included in the post-conviction petition and the  
22 proceedings and was considered by the judge in the proceedings  
23 in relation to his post-conviction.

24 THE COURT: Okay. Any objection to that, Ms. Wang?

25 MS. WANG: No.

1 THE COURT: All right.

2 (Proceedings heard in open court:)

3 THE COURT: All right. You can proceed as we  
4 discussed.

5 BY MS. EKL:

6 Q. Let me ask you some questions about the actual  
7 post-conviction petition that was filed on behalf of Adam  
8 Gray. Is it fair to say that there were a number of different  
9 issues that were raised generally in the post-conviction  
10 petition?

11 A. Yes.

12 Q. And one of those things was a challenge to his sentence,  
13 correct?

14 A. Yes.

15 Q. And that was based on the fact that there was a change in  
16 the law that had occurred from the time that he was sentenced  
17 and the time that he was petitioning the court in his  
18 post-conviction petition?

19 A. That's right. When Mr. Gray was convicted, the sentence  
20 of natural life was mandatory given the nature of the crimes  
21 of which he was convicted.

22 Q. Based on the fact that it was a murder of two individuals,  
23 that made it a mandatory sentence, correct?

24 A. I believe that did, along with the fact that it was that  
25 the conviction was for arson murder which I think was -- I



1 think the conviction of arson was a separate aggravating  
2 factor, if I remember -- if I remember correctly under the  
3 statute, so both, yes.

4 Q. In either event, the State's Attorney at that time, Anita  
5 Alvarez, was not contesting that he was entitled to some  
6 relief on the basis that that statute had been basically  
7 overruled by the Supreme Court, correct?

8 A. That at some point, she stopped contesting when the  
9 Supreme Court ruled in *Miller v. Louisiana*, yes.

10 Q. And another basis for that post-conviction petition, as  
11 you stated, was the fact that there had been a significant  
12 change in the arson science, correct?

13 A. Correct.

14 Q. And was it your understanding that at the time of trial,  
15 the arson investigators which included both a bomb and arson  
16 investigator by the name of Rokosik and a fire marshal by the  
17 name of Gruszka had relied on principles, fire investigation  
18 principles that were applicable at the time of their  
19 investigation but that were now deemed to be unreliable?

20 A. I would say yes and no. They certainly -- it certainly  
21 was widespread belief that the methods that they used were  
22 appropriate at that time, but there was also at least one  
23 scientific publication of which I'm aware which had called  
24 that into question.

25 Q. Okay. But at the time that you were in front of the court

1 arguing about the fact that Mr. Gray should receive a new  
2 trial, do you recall telling the court that scientific  
3 standards for arson investigation have advanced leaps and  
4 bounds since they were in the early 1990s?

5 A. Yes. Absolutely, yes.

6 Q. And is it fair to say that State's Attorney Anita's  
7 office -- Anita Alvarez's office was not disagreeing with you  
8 that the fire science had changed and that that entitled  
9 Mr. Gray to a new trial?

10 A. Eventually, they agreed. Initially, they opposed the  
11 argument and took the position that there was nothing that met  
12 the requirement of newly discovered scientific evidence but  
13 eventually, they did agree, yes.

14 Q. And during the post-conviction phase, there was extensive  
15 investigation both by your office and by the State's  
16 Attorney's office into the changes in the fire science,  
17 correct?

18 A. Yes.

19 Q. You hired some experts to explain how the fire science had  
20 changed, correct, and you had presented that to the State's  
21 Attorney's office as well as to the court, correct?

22 A. Yes.

23 Q. Additionally, there were -- you were also arguing that --  
24 a third prong in the post-conviction petition that Mr. Gray  
25 was actually innocent, correct?

1 A. Yes. The -- I think the scientific evidence, you know,  
2 was part of the support for that claim but, yes, one of the  
3 claims was that Mr. Gray was actually innocent of the crimes.

4 Q. And you conducted an investigation in relation to whether  
5 or not there was other evidence to support his conviction,  
6 correct?

7 A. Yes.

8 Q. And that was also presented to the court -- at that time,  
9 it was Judge Petrone -- as well as State's Attorney Anita  
10 Alvarez's office, correct?

11 A. Yes.

12 Q. Is it fair to say that the State's Attorney's office  
13 opposed -- or did not agree with your position that Mr. Gray  
14 was actually innocent, correct?

15 A. I think they eventually did agree. Along the way, they  
16 changed their position and conducted more investigation and  
17 eventually agreed that a certificate of innocence was  
18 appropriate.

19 Q. Well, when the certificate -- when they made a decision  
20 that the certificate of innocence was -- that they were not  
21 going to oppose the certificate of innocence, "they"  
22 references the State's Attorney office that was now under Kim  
23 Foxx, correct?

24 A. By the time they agreed to the certificate of innocence,  
25 Ms. Foxx had been elected, correct.

1 Q. Okay. And my question was specific to Anita Alvarez's  
2 office. So back in 2016 when Anita Alvarez was still in  
3 office, the State's Attorney's office opposed Mr. Gray's  
4 petition for actual innocence, correct?

5 A. They didn't oppose it in full. They agreed that Adam  
6 should be entitled to a new trial on the basis of the evidence  
7 that was presented in the petition.

8 Q. But they represented to the court that they believed they  
9 had enough evidence to convict your client a second time,  
10 correct?

11 A. I don't recall if they represented that to the court.  
12 They may have.

13 Q. Do you recall telling the court, this is back in 2016,  
14 that you believed that Mr. Gray had met his burden to show  
15 that it is reasonably probable that if he were to be retried  
16 given the record as it stood in the case, the evidence  
17 presented at trial and the unreliability of the methods used  
18 and testified to by Fire Marshal Gruszka and Detective Rokosik  
19 that there was a reasonable probability or possibility based  
20 upon the evidence that Mr. Gray would not be convicted?

21 A. It's a long question, but I think the answer is yes.

22 Q. All right. The position of both the State's Attorney's  
23 office and yourself on behalf of Mr. Gray was presented to  
24 that post-conviction judge, Judge Angela Petrone, correct?

25 A. Yes.

1 Q. And together, the two sides requested -- or filed a joint  
2 motion in front of Judge Petrone requesting a new trial that  
3 was agreed upon, correct?

4 A. That's correct, yes.

5 Q. And Judge Petrone denied that request, correct?

6 A. Yes, she did.

7 Q. Judge Petrone said that she wanted to see evidence and  
8 make a decision based on actual evidence, not just an  
9 agreement that this individual who had been convicted of two  
10 murders should get a new trial, correct?

11 A. In essence, yes. She said she felt that she was obligated  
12 to conduct a hearing.

13 Q. And you presented her with all of the evidence that you  
14 believe supported his actual innocence and would entitle him  
15 to relief that he sought in his post-conviction petition,  
16 correct?

17 A. Yes.

18 Q. And that included the experts that you had hired to talk  
19 about fire science, correct?

20 A. That's right, yes.

21 Q. And it also included some experts who you had hired to  
22 give opinions related to, for instance, eyewitness  
23 identification, correct?

24 A. Yes.

25 Q. Including someone by the name of Geoffrey Loftus, correct?

1 A. Yes.

2 Q. You presented her with affidavits that had been obtained  
3 by Rebecca George, now Rebecca Gray, correct?

4 A. Some of the affidavits, yes.

5 Q. And the judge issued a 27-page opinion after reviewing  
6 that evidence, correct?

7 A. Yes.

8 Q. And concluded, in her words -- and this is, counsel,  
9 Defense Exhibit No. 66 on Page 27.

10 She stated:

11 "It is clear to this court based on the allegations  
12 of the petition and supporting materials that there has  
13 been no showing of a substantial deprivation of  
14 petitioner's constitutional rights at trial. Petitioner  
15 has failed to present conclusive evidence of his actual  
16 innocence or any evidence that is of such a conclusive  
17 nature that it would probably change the result at  
18 retrial. Therefore, the request for an order granting  
19 petitioner a new trial has been denied."

20 Correct?

21 MS. WANG: Objection, Judge. She's -- hearsay.

22 THE COURT: All right. Let's take a quick sidebar.  
23 (Proceedings heard at sidebar:)

24 THE COURT: So the objection is hearsay?

25 MS. WANG: Hearsay and relevance.

1 THE COURT: Okay. On the -- on relevance, Ms. Ek1,  
2 just go ahead and state it for the record.

3 MS. EKL: Sure. Plaintiff is introducing the  
4 evidence that they presented to the court in support of his  
5 actual innocence claim. And part of that is they're relying  
6 on the certificate of innocence. Defense is simply putting in  
7 additional evidence that was presented to the court with the  
8 intent of showing it's the same evidence that was presented at  
9 the time of the COI and with a different result.

10 THE COURT: Yeah, I think this comes in with the  
11 certificate of innocence, and then you'll have to duke it out.  
12 Overruled.

13 (Proceedings heard in open court:)

14 THE COURT: All right. The objection is overruled,  
15 and the answer can stand.

16 BY MS. EKL:

17 Q. After Judge Petrone denied the motion for a new trial, the  
18 next step that your office took on behalf of Mr. Gray was to  
19 file a notice of appeal now back up into the First District  
20 Appellate Court in Illinois, correct?

21 A. Yes.

22 Q. And that was filed on December 1st of 20' --

23 A. 2016, I believe.

24 Q. 2016. And do you know that to be the same date that the  
25 new State's Attorney Kim Foxx went into office?

1 A. I don't know when she came into office. I know it was  
2 around that time.

3 Q. Do you recall whether or not an appeal was actually  
4 finalized and filed in the appellate court?

5 A. We filed the notice of appeal which lodges the appeal in  
6 the appellate court. Then we had further discussions with  
7 Ms. Foxx's first assistant, Eric Sussman, and chief of  
8 criminal prosecutions, Joe Magats --

9 Q. And my question simply --

10 A. -- regarding disposition, so we never briefed the appeal.  
11 We reached an agreed resolution of the appeal.

12 THE COURT: All right. That can stand. Next  
13 question.

14 MS. EKL: Thank you.

15 BY MS. EKL:

16 Q. So after filing the notice of appeal, you then had these  
17 meetings with assistant -- with State's Attorney Kim Foxx's  
18 office and her -- basically, her supervisory personnel within  
19 the office, correct?

20 A. Right, her top two people.

21 Q. Okay. At the time that you met with Kim Foxx's office,  
22 did you have any new evidence other than what had previously  
23 been presented to Judge Petrone in the trial court in relation  
24 to the post-conviction proceedings?

25 A. No.



1 Q. After meeting with Kim Foxx's office, did -- was it then  
2 that both her office as well as you as her attorneys came up  
3 with some language to present to the appellate court seeking  
4 dismissal of the appeal?

5 A. Yes. I was Mr. Gray's attorney.

6 Q. Oh, I'm sorry.

7 A. But, yes, Mr. Sussman and I came up with language for an  
8 agreed motion which we filed with the appellate court.

9 Q. And that agreed motion sought to vacate Mr. Gray's  
10 convictions and enter what is called a nolle pros that you  
11 mentioned earlier, correct?

12 A. That's right, yes.

13 Q. All right. And that effectively released or dismissed the  
14 charges against Mr. Gray, correct?

15 A. That's correct.

16 Q. That was not something that was -- that was not something  
17 that was decided by the appellate court based on evidence  
18 presented to them, correct?

19 A. Well, they had the record from the case. They had our  
20 motion, and they granted the agreed motion. So what they  
21 considered, I assume they considered at least the motion.

22 Q. When you say they had the record from the case, they  
23 didn't have a brief from you seeking any relief, correct?

24 A. That's right, yes.

25 Q. So you have no reason to believe that they looked at any

1 record in support of an agreed order, correct?

2 A. I don't know what they looked at and didn't look at beyond  
3 our motion and what was cited in our motion which were things  
4 from the record.

5 Q. It was after that agreed order was entered that you then  
6 sought relief back again in the state court for a certificate  
7 of innocence, correct?

8 A. Correct.

9 Q. All right. And again, this was now still during the time  
10 when State's Attorney Kim Foxx was in office as she is still  
11 today, correct?

12 A. That's right.

13 Q. All right. And when the case was presented for a  
14 certificate of innocence, was it in front of the same judge,  
15 Judge Petrone, or was it assigned to a different judge?

16 A. It was assigned to Judge LeRoy Martin, Jr., who I think  
17 was the judge who heard all petitions of that sort at the  
18 time, if I remember correctly.

19 Q. So the agreed order was entered on May 3rd of 2017. And  
20 then is it fair to say that the petition for certificate of  
21 innocence was filed that same year, in November of 2017?

22 A. Yes.

23 Q. Within a couple of months, did yourself and the State's  
24 Attorney's office under Kim Foxx submit an agreed order  
25 granting Mr. Gray a certificate of innocence?

1 A. Yes.

2 Q. And is it fair to say that you worked out language that  
3 you wanted the judge to sign with the State's Attorney's  
4 office, so that was agreed language in the order? The judge  
5 didn't come up with that himself, correct?

6 A. Well, there's -- the order consists of two parts. I think  
7 there's the printed part which we looked at during my direct  
8 testimony, and then there was a motion and agreed order that  
9 we submitted to the court. That motion and agreed order  
10 language, Mr. Sussman and I negotiated.

11 Q. Okay. Let me show you the first two pages -- counsel,  
12 this is Plaintiff's Exhibit No. 95, Pages 1 and 2 -- of the  
13 exhibit that you were shown earlier.

14 Do you recognize this document?

15 A. Yes.

16 Q. And what do you recognize this to be?

17 A. This is the agreed order that the State and we submitted  
18 to Judge Martin --

19 Q. And --

20 A. Sorry.

21 Q. I didn't mean to cut you off.

22 And again, this is language that you and the State's  
23 Attorney's office had come up with, correct?

24 A. Yes. My recollection is it's language that the State's  
25 Attorney's office requested and we agreed to, yes.

1 Q. If you could take a look at the last paragraph of that  
2 agreed order, the language that reads:

3 "In so ruling, this Court notes that 735 ILCS 5/2-702  
4 does not require this Court to make any findings of any  
5 potential misconduct by any particular individual or  
6 entity related to the granting of a certificate of  
7 innocence, and this Court has not" -- "has not asked" --  
8 or, I'm sorry, "was not asked by the parties, nor did it,  
9 make any findings one way or the other on that topic.  
10 Thus, this order and the petitioner's certificate of  
11 innocence are not intended to have evidentiary weight in  
12 proving, in any other proceeding."

13 Do you see that language?

14 A. Yes. I think it may go on after "proceeding," but yes.

15 Q. I'll just turn it so you can see. Oh, I'm sorry. Let's  
16 read the whole sentence:

17 "In proving in any other proceeding that the Cook  
18 County State's Attorney's office or any of its Assistant  
19 State's Attorneys engaged in misconduct with respect to  
20 petitioner's wrongful conviction, but the Court expresses  
21 no opinion as to whether the order of certificate of  
22 innocence may or may not be admissible in another  
23 proceeding for some other purpose."

24 Was this language that you agreed to with the State's  
25 Attorney's office?

1 A. Yes. They requested it, and we agreed to include it.

2 Q. And Judge Martin who was the judge presiding at that time  
3 agreed that this order was being entered with the intent that  
4 it not have any -- necessarily have any evidentiary weight in  
5 any other proceedings, correct?

6 A. Well, he entered the order. I don't recall a discussion  
7 of that with Judge Martin when we appeared in court.

8 Q. Okay. When you presented him with this agreed order, did  
9 you present him with all of the evidence that you had  
10 previously presented to Judge Petrone including the expert  
11 testimony, the affidavits, and the trial testimony that had  
12 been provided to her?

13 A. Yes. We -- when we filed the petition for certificate of  
14 innocence before Judge Martin, we included a -- either a disk  
15 or some sort of an electronic file that had the entire record  
16 from the post-conviction proceedings, so all of the evidence  
17 that had been submitted to Judge Petrone.

18 Q. So it was all on a disk, correct?

19 A. Or some sort of other electronic media, yes.

20 Q. There was no live testimony presented to Judge Martin,  
21 correct?

22 A. That's right.

23 Q. And there was no additional evidence on that CD that  
24 hadn't previously been presented to Judge Petrone, correct?

25 A. Correct.

1 MS. EKL: May I have one moment, Judge?

2 THE COURT: You may.

3 (Pause.)

4 MS. EKL: Counsel, this is Defendants' Exhibit 66.

5 BY MS. EKL:

6 Q. Ms. Mascherin, I had asked you earlier about Judge  
7 Petrone's ruling that was provided to you on November 7th of  
8 2018. I'm going to show you what's been marked as Defendants'  
9 Exhibit No. 66.

10 MS. WANG: Objection.

11 MS. EKL: Do you recognize that document?

12 MS. WANG: Objection. Hearsay.

13 THE COURT: Okay. Other than that, any other  
14 objection?

15 MS. WANG: Objection. Hearsay. 403. Relevance.

16 THE COURT: Okay. Overruled. It's allowed.

17 (Defendants' Exhibit 66 received in evidence.)

18 THE WITNESS: I'm sorry. What was your question?

19 BY MS. EKL:

20 Q. Do you recognize this document?

21 A. Yes.

22 Q. And what do you recognize this to be?

23 A. It's the written ruling that Judge Petrone issued.

24 Q. Okay. And it's the written ruling that we just referenced  
25 that is 27 pages, correct?

1 A. If you say so. I don't see the page number.

2 Q. I'm sorry.

3 A. Yes.

4 Q. Okay. And in this ruling, is it fair to say that Judge  
5 Petrone set forth various pieces of evidence that she reviewed  
6 and considered that you had provided to her in relation to  
7 this case including, as we had talked about earlier, for  
8 instance, reports of experts, affidavits of people who had  
9 testified at trial, correct?

10 A. Correct.

11 Q. Was any of the language in this 27-page opinion language  
12 that had been worked out between the parties, meaning did the  
13 State's Attorney's office agree to the language in  
14 Ms. Petrone's opinion?

15 A. She wrote -- Judge Petrone wrote the opinion. We didn't  
16 have input into the opinion except to argue, present the  
17 evidence and argue the issues.

18 Q. Okay. And her conclusion on the final page again where  
19 she says:

20 "It is clear to this court based on the allegations  
21 of the petition and supporting materials, there has been  
22 no showing of a substantial deprivation of petitioner's  
23 constitutional rights. Petitioner has failed to present  
24 conclusive evidence of his actual innocence or any  
25 evidence that is of such conclusive nature that it would

1           probably change the result at trial. Therefore, the  
2           request for an order granting petitioner a new trial is  
3           denied."

4           Those are her words, correct?

5   A. Yes.

6   Q. The State's Attorney's office didn't prepare that for her  
7   even though they opposed the motion for a new trial, correct?

8   A. Well, by this point they were agreeing to the motion for a  
9   new trial, but as far as I'm aware, they did not write that  
10   language.

11   Q. And you did not write that language either?

12   A. Of course not.

13           MS. EKL: I have nothing further, Judge.

14           THE COURT: All right. Redirect, if any.

15                           REDIRECT EXAMINATION

16   BY MS. WANG:

17   Q. Ms. Mascherin, Ms. Ekl asked you some questions about  
18   earlier appeals that happened along the way. Do you know how  
19   many years it was that Adam fought his conviction?

20   A. By the time he was ultimately released, I believe it was  
21   24 or 25 years.

22   Q. Now, Ms. Ekl asked you about the investigation of your  
23   office and the investigation of the State's Attorney's office.  
24   Can you summarize what the investigation was that the State's  
25   Attorneys did?



1 A. The State's Attorneys, we know, interviewed several  
2 witnesses because they produced statements or memoranda about  
3 that. And they indicated to us that they had done their own  
4 investigation of the arson science and had confirmed that what  
5 we had presented with respect to the new scientific knowledge  
6 that had been developed since the time of the trial was  
7 accurate.

8 They took the deposition of Dr. Hurst, one of our  
9 experts on fire investigation and arson science and questioned  
10 him for several hours, as I recall. So they -- they  
11 essentially reinvestigated the whole case in the context of  
12 the post-conviction proceeding and the discussions that we  
13 were having with the conviction integrity unit in our efforts  
14 to persuade them to dismiss the charges.

15 Q. So after the State's Attorney's office did their own  
16 investigation, interviewed your arson experts including  
17 Dr. Hurst, what -- did they change their position with respect  
18 to the request for a new trial?

19 A. Yeah. They very much changed their position. We met with  
20 them. They informed us that they agreed with us on the  
21 science and agreed that the evidence that had been used to  
22 convict Mr. Gray of the arson, the, you know, so-called  
23 science evidence, was not valid and that because of the fact  
24 that that evidence, you know, had been used at the time of  
25 trial and would not be used today, he was entitled at a

1 minimum to a new trial.

2 Q. And how many cases have you had in your career where the  
3 State's Attorney's office agreed to a new trial, dismissed the  
4 charges, entered a certificate of innocence?

5 MS. EKL: Objection, Judge.

6 THE COURT: Sustained.

7 BY MS. WANG:

8 Q. So after initially opposing the dismissal, they agreed to  
9 a new trial. Did they then go further and decide to dismiss  
10 the charges?

11 A. Yes. They -- State's Attorney Foxx and Mr. Sussman, her  
12 first assistant, informed us that they had done their own  
13 review of the case and that their decision was that it -- that  
14 it would be most appropriate for the case to be dismissed and  
15 for Mr. Gray not to be retried.

16 Q. Now, Ms. Ekl spent a little bit of time with you asking  
17 you about Judge Petrone's 27-page opinion in the case. She  
18 read you from the court decision. This was something that  
19 happened along the way to getting Mr. Gray's conviction  
20 overturned, correct?

21 A. That's right. It's one of several rulings Judge Petrone  
22 made along the way.

23 Q. Okay. And what was the final word after Judge Petrone?

24 A. Ultimately, the State's Attorney's office agreed, and the  
25 appellate court dismissed the case and entered an order of

1 nolle pros which means that the State's dropping all charges  
2 and Mr. Gray cannot be retried.

3 Q. Now, what was in the -- we talked -- Ms. Ekl also asked  
4 you a bit about the certificate of innocence, and she read to  
5 you from the agreed order. First, let me ask you, what was in  
6 the record that was -- that you had given to the State's  
7 Attorney's office when they decided to agree to the  
8 certificate of innocence?

9 MS. EKL: Objection, Judge. Form.

10 THE COURT: Overruled.

11 BY THE WITNESS:

12 A. The record that the State's Attorney had when she -- when,  
13 you know, her office agreed included everything that we had  
14 in -- that we had uncovered in our investigation: All of the  
15 evidence about the change in the arson science; the debunking  
16 of the science, the so-called scientific evidence that was  
17 used at trial; the evidence that Mr. Gray's confession was not  
18 voluntary; the evidence that some of the witnesses had  
19 indicated that they had been pressured to give testimony that  
20 they now believe not to be accurate.

21 All of the evidence that we had developed in the  
22 course of the post-conviction proceeding plus whatever  
23 additional investigation the State's Attorney did,  
24 Ms. Alvarez's office did and Ms. Foxx's office did, all of  
25 that, you know, that -- by the point the State made its

1 ultimate decision, they had all of that evidence.

2 Q. Now, I'm showing you Plaintiff's Exhibit 95 which was  
3 shown to you by Ms. Ek1. And at the bottom here it says:

4 "Thus, this order and the petitioner's certificate of  
5 innocence are not intended to have evidentiary weight in  
6 proving in any other proceeding that the Cook County  
7 State's Attorney's office or any of its Assistant State's  
8 Attorneys engaged in misconduct with respect to  
9 petitioner's wrongful conviction."

10 Does this order say anything about the police  
11 officers?

12 A. No.

13 Q. And turning to Page 3 of Plaintiff's Exhibit 95, what are  
14 the things that Judge Martin found in granting the certificate  
15 of innocence? What are the things that had to be proven that  
16 he found was proved?

17 A. He found that we had shown that Mr. Gray had been  
18 convicted, that -- of a crime in Cook County; that the  
19 judgment of conviction was reversed or vacated, which it was  
20 by virtue of the appellate court's decision and the order to  
21 nolle pros the case.

22 He found, you know, that the indictment was dismissed  
23 which it was with the nolle pros; that the petition was filed  
24 timely within two years; that Mr. Gray was innocent of the  
25 offenses that had been charged; and that Mr. Gray had not

1 voluntarily caused or brought about those charges through his  
2 own conduct.

3 MS. WANG: Thank you.

4 THE COURT: All right. Anything else?

5 MS. EKL: Yes, Judge, very, very briefly to clarify.

6 RECROSS-EXAMINATION

7 BY MS. EKL:

8 Q. You mentioned something about Judge -- about State's  
9 Attorney Kim Foxx's investigation. Are you -- it's not your  
10 testimony that Kim Foxx's office conducted any additional  
11 investigation other than what was already conducted by Anita  
12 Alvarez's office, correct?

13 A. I don't know exactly what they did. I know that we were  
14 informed and Mr. Sussman wrote into the agreed motion that was  
15 filed in the appellate court that State's Attorney Foxx and  
16 her staff had conducted its own review of the case.

17 Q. Correct. But they never stated to you or to any court  
18 that they had conducted any additional or new investigation  
19 other than what had been conducted at the time that Judge  
20 Petrone made her findings in denial of petitioner seeking  
21 leave of a new trial, correct?

22 A. They -- what they -- I don't know what they did or didn't  
23 do in their review. What they said in the language that they  
24 wrote for the joint motion to dismiss was that State's  
25 Attorney Foxx had conducted her own review.

1 Q. You are Adam Gray's attorney obviously, correct?

2 A. I was.

3 Q. Or you were his attorney. And you have advocated for  
4 Mr. Gray throughout the course of his post-conviction  
5 proceedings, correct?

6 A. Yes.

7 Q. And the order that was eventually agreed to with you and  
8 State's Attorney Kim Foxx's office, that did not include any  
9 lawyers on behalf of the police officers who conducted the  
10 criminal investigation, correct?

11 A. It -- the parties I was negotiating with were the lawyers  
12 from the State's Attorney's office who represent the State of  
13 Illinois and the people of Cook County.

14 Q. Correct. To your knowledge, the police officers who were  
15 involved in the investigation were not asked to provide  
16 affidavits that were presented and considered, correct?

17 A. I have no idea what Ms. Stack asked the police officers to  
18 do or didn't ask them to do during the post-conviction  
19 proceedings.

20 Q. You never saw that anyone interviewed any of the police  
21 officers in the course of the post-conviction proceeding to  
22 determine if their views on the investigation that was  
23 conducted had changed, correct?

24 A. I think there were some interviews of the police that had  
25 occurred during the course of the post-conviction proceeding.

1 I know my colleague, Mr. Patnaik, had attempted to talk to  
2 some of the officers, I believe had talked to one of them at  
3 least.

4 And I don't remember precisely but I know that the --  
5 that Ms. Stack produced a number of memos of interviews that  
6 she had done, and some of those may have been interviews of  
7 the police officers. I just don't remember.

8 Q. You don't recall as you sit here today, correct?

9 A. I don't remember.

10 Q. And to your knowledge, there was no input by any police  
11 officers into whether or not Mr. Gray should -- no input was  
12 asked of the police officers as to whether or not Mr. Gray  
13 should receive a certificate of innocence, correct?

14 A. I have no idea what the State's Attorney's office did or  
15 didn't communicate. I didn't communicate with the police  
16 officers or anyone representing them.

17 MS. EKL: I have nothing further.

18 THE COURT: All right. Anything else?

19 MS. WANG: No, your Honor.

20 THE COURT: All right. You are excused. You can  
21 step down.

22 (Witness excused.)

23 THE COURT: And who is the next witness?

24 MR. LOEVY: Adam Gray.

25 THE COURT: All right. Let's take our lunch break

1 then, ladies and gentlemen. And remember, I do have to break  
2 early today, unfortunately, at 1:45. And maybe you can enjoy  
3 the weather in Chicago for a bit. So let's, we'll take our  
4 lunch break to, let's take one hour. Okay. So 10 to 1:00.

5 All rise.

6 (Recess from 11:50 a.m. to 12:50 p.m.)

7 \* \* \* \* \*

8 C E R T I F I C A T E

9 I, Judith A. Walsh, do hereby certify that the  
10 foregoing is a complete, true, and accurate transcript of the  
11 proceedings had in the above-entitled case before the  
12 Honorable EDMOND E. CHANG, one of the judges of said court, at  
13 Chicago, Illinois, on May 9, 2023.

14  
15 /s/ Judith A. Walsh, CSR, RDR, F/CRR June 14, 2023

16 Official Court Reporter

17 United States District Court

18 Northern District of Illinois

19 Eastern Division  
20  
21  
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23  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ADAM GRAY, )  
 )  
Plaintiff, )  
 )  
v. ) No. 18 CV 02624  
 )  
CITY OF CHICAGO, et al., ) Chicago, Illinois  
 ) May 9, 2023  
Defendants. ) 12:52 p.m.

TRANSCRIPT OF PROCEEDINGS - Trial

Volume 2-B

BEFORE THE HONORABLE EDMOND E. CHANG, and a Jury

APPEARANCES:

For the Plaintiff: LOEVY & LOEVY  
BY: MR. JONATHAN I. LOEVY  
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MS. JORDAN POOLE  
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1 (Proceedings heard in open court. Jury in.)

2 THE COURT: Okay. Good afternoon, ladies and  
3 gentlemen. We're ready to resume.

4 Go ahead and announce your next witness.

5 MR. LOEVY: Your Honor, at this time the plaintiff  
6 calls the plaintiff, Adam Gray.

7 THE COURT: All right. Please stand for a moment,  
8 Mr. Gray, and raise your right hand.

9 (Witness sworn.)

10 THE WITNESS: I do.

11 THE COURT: All right. Mr. Loevy?

12 ADAM GRAY, PLAINTIFF'S WITNESS, SWORN

13 DIRECT EXAMINATION

14 BY MR. LOEVY:

15 Q. All right. If you'd state your name for the record.

16 A. My name is Adam Gray.

17 THE COURT: And yes, Mr. Gray, can you pull that mike  
18 up?

19 THE WITNESS: Good? Testing.

20 MR. LOEVY: We'll try it.

21 THE COURT: If you can just level it out this way.  
22 There you go.

23 All right. Mr. Loevy?

24 BY MR. LOEVY:

25 Q. All right. How old are you, sir?

1 A. I'm 44.

2 Q. And where do you live?

3 A. I live in Hastings, Michigan.

4 Q. And where do you live in Hastings, Michigan?

5 A. A cabin in the woods with my wife.

6 Q. And who is your wife?

7 A. Her name is Rebecca Gray.

8 Q. How long have you been married?

9 A. Four years.

10 Q. And who else there lives in the house with you?

11 A. Dog, cat, two rabbits.

12 Q. And what does your wife do?

13 A. She is an artist, and she has an online gallery, and she  
14 represents other artists in that capacity.

15 Q. Do you have any children?

16 A. I do not.

17 Q. All right. Sir, what happened to you when you were 14  
18 years old?

19 A. I was arrested and charged with a crime I didn't commit  
20 and sentenced to life without parole. I went to prison for  
21 nothing.

22 Q. Where did you spend your life between 18 and -- I'm sorry,  
23 14 and 38?

24 A. In the IDOC, Illinois Department of Corrections, in one  
25 form or another.

1 Q. And do you remember the date when you were first  
2 incarcerated and arrested?

3 A. I was arrested on March 25th, 1993. I remember it was a  
4 Thursday.

5 Q. And how old were you at that time?

6 A. 14 and six weeks.

7 Q. How long had you been 14?

8 A. Six weeks.

9 Q. When is your birthday?

10 A. February 3rd.

11 Q. Where were you supposed to be on the day that you spent  
12 your first day in prison?

13 A. In school.

14 Q. How long total did you spend in prison for that crime you  
15 didn't commit?

16 A. 24 years and some change.

17 Q. Did you commit the crime they accused of you, sir?

18 A. I did not.

19 Q. Are you innocent or guilty?

20 A. I am 100 percent innocent.

21 Q. What eventually happened to your conviction?

22 A. Science caught up and a lot of other stuff materialized,  
23 and it was compelling enough to convince people to let me go.

24 Q. It was vacated, your conviction?

25 A. My conviction was vacated.

1 Q. And did you pursue it to the certificate of innocence that  
2 Ms. Mascherin talked about this morning?

3 A. Yeah. Yes, I did.

4 Q. All right. Let's back up then. Let's start at the  
5 beginning. Where were you born, sir?

6 A. Olympia Fields. It's just south of Chicago on Pulaski, a  
7 little suburb.

8 Q. All right. Is this an easy subject for you to talk about,  
9 sir? You seem a little subdued.

10 A. No, no, I'm okay. I'm okay. I'm just -- I'm all right.

11 Q. All right.

12 A. I'm nervy.

13 Q. What neighborhood did you grow up in?

14 A. Brighton Park.

15 Q. And just tell the jury the addresses you were and the  
16 geographic context.

17 A. Between California and Kedzie, between Archer and the  
18 Stevenson.

19 Q. And how many houses did you have growing up or apartments?

20 A. About three or four in my childhood. It's apartments. We  
21 moved from one to the next. My mom rented.

22 Q. And where were they geographically?

23 A. We had one apartment, I remember it was on Pershing, 39th  
24 and Pershing right off California. And we lived on 38th  
25 Street right off of Sacramento. And then we lived on 42nd

1 Street on Albany. And we lived on 38th Place when I was real  
2 little. I don't really remember it that much.

3 Q. And are these all near each other?

4 A. Yeah, they're all within four blocks.

5 Q. And what's the name of the neighborhood?

6 A. Brighton Park.

7 Q. Who lived in the house there at the beginning when you  
8 first got there?

9 A. When I was born?

10 Q. Well, who lived there when you were growing up small.

11 A. My siblings and my ma.

12 Q. And who -- and your mother was the head of the household?

13 A. Yeah.

14 Q. What was she doing?

15 A. When I was little, nothing. She was just taking care of  
16 us. And then when I got a little older and I went to  
17 kindergarten, she ended up having to get a job.

18 Q. And where did she work?

19 A. She was -- I don't remember her first job if it's  
20 accurate, but she worked as a bank -- as a teller in a  
21 currency exchange when I was little.

22 Q. And then where did she spend most of her working years?

23 A. She ended up getting a job at a bank that was about a  
24 block and a half from our house, and so that's where she  
25 worked when I was taken, so...

1 Q. Do you remember how many years about she worked there?

2 A. No. She worked a couple -- she was working there three or  
3 four years before I was arrested, but I don't know how long  
4 she worked there in total.

5 Q. All right. And what -- did your mom provide for you and  
6 your siblings?

7 A. As best she could.

8 Q. All right. Was your dad in the house when you were  
9 growing up?

10 A. No.

11 Q. What was he like?

12 A. I loved my dad. My dad was big and stern and no-nonsense  
13 and intelligent, and I loved my dad. I thought he was great.

14 Q. All right. Where are your parents now? Are they still  
15 alive?

16 A. No. They both passed recently.

17 Q. All right. Was there -- you mentioned your siblings. Was  
18 there a big difference between you and your siblings age-wise?

19 A. The nearest sibling was six and a half years older than  
20 me. So yeah, I got -- my three siblings, they're a little  
21 distant from me. They're all older.

22 Q. Let's start with your sister. How much older was she than  
23 you?

24 A. About nine years.

25 Q. And when you were young, was she -- when your mom was



1 working, why don't you tell us about that.

2 A. Yes. She was the one who primarily babysat for me if my  
3 mom was at work, yeah.

4 Q. And where did she end up going once she got to the high  
5 school years?

6 A. She went to Wisconsin with my aunt to Racine, and she went  
7 to high school up there and graduated.

8 Q. And then did she go on after high school? What did she go  
9 do?

10 A. She started -- I think she went to Northwestern first here  
11 in the city. I don't know her timeline, so I can't really  
12 tell you.

13 Q. And --

14 A. She went to college. She went on with her life. I don't  
15 know every little detail there, though.

16 Q. Sure. And what did she end up doing for her career?

17 A. My understanding is she's a pretty snazzy accountant for  
18 some international bank.

19 Q. And where does she live?

20 A. She lives in England.

21 Q. All right. And you have a relationship with her to this  
22 day?

23 A. Yeah.

24 Q. How often --

25 A. We talk two, three times a week.

1 Q. All right. How about your oldest brother, Dave? How much  
2 older was he than you?

3 A. He would be eight years older.

4 Q. And did he move out when you were young? You would have  
5 been about ten?

6 A. Yeah. He joined the Navy. He was young. I think he was  
7 17. I think he had to get my ma's, like a written permission  
8 so he could get into the Navy. So he left. He moved out  
9 before that. He moved out. He had his own apartment, like,  
10 when he was 16, I think. He joined the Navy, and then he was  
11 gone.

12 Q. And then what do you know about his Navy career?

13 A. As far as, he had a pretty impressive career. So I don't  
14 know all the ins and outs, but he was in the Navy for a long  
15 time.

16 Q. And did he get an education?

17 A. He did.

18 Q. What was his profession?

19 A. What is his profession?

20 Q. Yeah. Or what did he study?

21 A. He studied physics and archaeology, I believe.

22 Q. And did he become a physicist?

23 A. He did.

24 Q. And did he -- what's his career?

25 A. He has a business that they do --

1 MR. NATHAN: Objection. Relevance.

2 THE COURT: Okay. Overruled. I'll give you some  
3 latitude on this background.

4 You can answer.

5 THE WITNESS: He has a business in California. And  
6 my understanding of it is not complete by no stretch, but they  
7 do very fine precision machining, him and a bunch of other  
8 physicist types.

9 BY MR. LOEVY:

10 Q. And does he have a family?

11 A. He does.

12 Q. And did you know his children before you got arrested?

13 A. Somewhat. They were small. My nieces, they were real  
14 young and I didn't -- my nephew was newborn, maybe a year old  
15 when I was taken. I didn't really bond with him or nothing,  
16 but I used to babysit for the girls.

17 Q. All right. And were you able to see him much during those  
18 24 years you were away?

19 A. I wouldn't say much. It's not -- that's not accurate, no.

20 Q. Is that a place for children, in the places you were?

21 A. No, it was not.

22 Q. All right. How about your younger -- your youngest older  
23 brother, what's his name?

24 A. His name is Michael.

25 Q. And what did he do when it was -- when he got a little

1 older?

2 A. He ended up joining the Marines. He went and did that.

3 Q. In the Marines, you said?

4 A. Yeah, Marines.

5 Q. All right. Was your family able to, you know, provide and  
6 do the things you needed to do?

7 A. My ma did the best that she could by us, yeah.

8 Q. Did you guys have a car?

9 A. No, we never had a car. We walked everywhere. We prided  
10 ourselves on walking home with our groceries. So no, we never  
11 had a car.

12 Q. And did you -- were you provided for with your needs in  
13 eating and clothes?

14 A. My ma always made sure we had food in the house, yes.

15 Q. All right. What was it like growing up in Brighton Park?

16 A. It was a little rough around the edges. There's a lot of,  
17 just, fighting or messing around.

18 MR. LOEVY: All right. And we're hearing it's a  
19 little hard to hear, your Honor. Can we ask if the jury is  
20 having trouble too, or should we move the mike?

21 THE COURT: Yeah. Well, so two things. One, ladies  
22 and gentlemen, if at any time you do have trouble hearing,  
23 just wave, do some semaphore, get my attention, and I'll  
24 remind the witness.

25 And then, yeah, Mr. Gray, if you can just pull the

1     mike as close as you can and lean right into there.

2             Okay. Go ahead.

3     BY MR. LOEVY:

4     Q. All right. As you're getting older, 10, 11, 12, what  
5     sorts of things would you do with your friends?

6     A. Well, mostly ride bikes or just play and just sit around  
7     talking and crack jokes.

8     Q. Did you have a Nintendo phase?

9     A. Oh, I did.

10    Q. What was that like?

11    A. Oh, I got addicted to that stuff. I love that. I loved  
12    playing Nintendo, me and my friends.

13    Q. How about sports?

14    A. Oh, yeah, I was pretty athletic. I wasn't, like, into  
15    specific sports, but I played everything. I did them all. I  
16    liked sports.

17    Q. Did you do like the Cub Scout thing with your mother?

18    A. I did. My mom was a den mother, and I accompanied her  
19    when I was little. And my two older brothers were Cub Scouts.  
20    And then when I came of age, I became a Cub Scout.

21    Q. All right. You mentioned there was fighting in Brighton  
22    Park. Can you tell us a little more about that?

23    A. It's kids in the neighborhood, tough, you know, being  
24    prideful or whatever and, I don't know, just neighborhood  
25    tension stuff.

1 Q. Would people get robbed in the neighborhood too?

2 A. Yeah. I got robbed.

3 Q. All right. When you say it was a tough neighborhood, is  
4 that how you guys thought of it back then?

5 A. No. I didn't -- one of my attorneys, Tara, she had said  
6 one day to me like offhand, "Yeah, you grew up in a tough  
7 neighborhood." And it just kind of stunned me a little bit.  
8 I never considered it that way, but I guess by comparison to a  
9 lot of other people, yeah.

10 Q. All right. Did people carry things to protect themselves  
11 in that neighborhood?

12 A. Yes, they did.

13 Q. Why was that?

14 A. Because you never know when somebody is going to run up on  
15 you and try to get you.

16 Q. All right. Did you, as you were growing up, spend much  
17 time outside of this radius, this few blocks that we're  
18 talking about?

19 A. Can you repeat that, please?

20 Q. Sure. Was most of your life focused in Brighton Park, or  
21 were there some things outside of Brighton Park?

22 A. Oh, I'm sure there were some things like -- I don't know.  
23 But, yeah, most of my life was Brighton Park.

24 Q. What would be some examples when you would leave the  
25 neighborhood?

1 A. I went to Green Bay to start my seventh grade. I was up  
2 there for a few months. My dad had a friend up there. They  
3 thought, like, get me out of the city, right. So I went and  
4 lived with this woman and her kids for a couple months,  
5 enrolled in school and hung out up there for a few months.  
6 And then I got terribly homesick and went home, went back to  
7 Chicago.

8 Q. All right. And would you sometimes go to Alsip?

9 A. Yeah, yeah. I had a buddy, he originally grew up in  
10 Brighton Park. He moved to 125th and Pulaski or something  
11 like that, way out there and, yeah, when he went out there.  
12 And so on the weekends sometimes, I'd take the bus all the way  
13 out there and hang out with them, spend the weekend there with  
14 him and his family.

15 Q. All right. Where did you attend school?

16 A. Davis Elementary.

17 Q. And did you enjoy school?

18 A. Sometimes, sometimes no.

19 Q. All right. And you heard it mentioned that you were a  
20 smart kid on some of those tests, huh? Are you a smart kid?

21 A. Probably. Maybe. I don't know. Just me.

22 Q. All right. Were you a good student with the grades?

23 A. When I was little, I was on the honor roll. I got A's.  
24 And then it was mixed, and then I kind of started ditching and  
25 stuff, and I didn't really take it seriously anymore. And

1 then toward the later, when I was seventh, eighth grade, I  
2 started being more interested in it. I had a teacher that I  
3 felt saw me, and I felt the courage to proceed with her and do  
4 other stuff. I got more interested, and then I started  
5 getting interested in girls. So they were in school, so I  
6 hung out with them.

7 Q. All right. Did you ever attend high school before you got  
8 arrested?

9 A. No.

10 Q. What were the holidays like when you were growing up?

11 A. I remember most notably Christmas. Christmas was, like,  
12 Hallmark card, idyllic. We'd go to my German grandma's house,  
13 and all of my ma and her sisters and all of my cousins and  
14 everybody would go there. And you'd walk in, and it smells  
15 like just delicious food and, you know, Christmas tree and all  
16 of that stuff. So every Christmas, it was the same way. I  
17 always went to my oma's house. That's German for grandma.  
18 And we had a good time. Yeah, it was a really good time.

19 And other holidays, my mom always tried to cook on  
20 Thanksgiving. Every major holiday, she'd try to get us to  
21 adhere to, like, Lent, you know. And the Easter holiday, she  
22 always cooked.

23 Q. Was your mother religious growing up?

24 A. She was. She was religious her whole life.

25 Q. All right. As you got older, how -- say, 12, 13, who were



1 your friends?

2 A. 12, 13, I had my two best friends which was Mel Gonzalez  
3 and Robbie Jaffke, and Kasey, Kasey Paris.

4 Q. Who else?

5 A. Other kids from the neighborhood. I mean, they were in  
6 and out. Sometimes you're friends one weekend, and the next  
7 time you're not. So a lot of kids just circulated in and out  
8 like that.

9 Q. Who were -- throw us some names. Who were some of the  
10 kids you were friends with?

11 A. Donald Dugard, Eddie Walczak, Lori Walczak, Simon Juarez,  
12 Natalie Zamecka, Denise Chavez. Is that enough?

13 Q. What was the ethnic mix of Brighton Park back in that  
14 time?

15 A. At what time? At the time of my arrest?

16 Q. Yes.

17 A. I'd say it's about 60 percent Latino, probably 35, 40  
18 percent white somewhere. It was Mexican and white, is  
19 primarily what Brighton Park was.

20 Q. And you mentioned Mel. Who was your best friend?

21 A. It was Mel Gonzalez and Robert Jaffke. I weighted them  
22 equally.

23 Q. All right. But Robert moved away?

24 A. Yeah, he moved away, so my daily friend would have been  
25 Melchor Gonzalez.

1 Q. And what was Mel like?

2 A. Oh, he was awesome. He was daring. He was bashfully shy,  
3 but he was daring. He was the kind of guy that if you wanted  
4 to go throw a rock through a window, he's game.

5 Q. Was that a good idea?

6 A. No. That was stupid. We did that stuff and it was  
7 stupid, but that's the kind of stuff we did.

8 Q. All right. What else did you do?

9 A. That's kind of vague. A whole bunch. We lived, so I  
10 don't know what you're asking specifically.

11 Q. Well, would you guys play Nintendo together?

12 A. Yeah, we played Nintendo. I would spend the night at his  
13 house. He'd spend the night at my house. We'd go to school  
14 together, hang out, go on adventures around the neighborhood.

15 Q. Were there train tracks where you guys would go?

16 A. Yeah, we'd go on the tracks all the time.

17 Q. And you mentioned the windows. Where were the windows if  
18 you --

19 A. It was usually, all the industrial buildings on the  
20 tracks, ain't nobody working there no more, we'd go up there  
21 and just have fun for a half hour.

22 Q. All right. Let's talk about, your 14th birthday, I think  
23 you said, was February 3rd, right?

24 A. Yeah.

25 Q. And what grade are you in at that time?

1 A. I was in eighth getting close to graduating.

2 Q. And you were getting more into school, if I'm not  
3 mistaken?

4 A. Yes, I was interested in school by eighth grade pretty  
5 good. I had that teacher I mentioned. Her name was  
6 Ms. Collins. She signed me up for what they called the  
7 academics league which was like a Jeopardy-style, slam the  
8 buzzer, first one gets the answer, you know.

9 And we were going to compete against other schools.  
10 And it was an afterschool program. So, like, I'd go there  
11 with these other kids and the teacher, and they were preparing  
12 us to go into battle against these other schools, you know.  
13 And so, yeah, I was doing that.

14 Q. And would you go to practices for that and make some  
15 friends?

16 A. Yeah, it was after school. It was in the school, but it  
17 was after school.

18 Q. Did you ever get to compete on that academic league team?

19 A. No, I never got there. I got arrested.

20 Q. All right. Where were you planning to go to high school?

21 A. I got approved for Bogan. They wanted me in their honors  
22 computer classes, if I remember correctly.

23 Q. And was that the neighbor -- you know, where were your  
24 friend going? Were your friends going to Bogan?

25 A. All my friends were going to Kelly, Kelly on California.

1 That's the neighborhood school. And Bogan is way out, like on  
2 80th, I think.

3 Q. But you made the decision you were going to go chase the  
4 honors computers up there?

5 A. Yeah, I was going to go there.

6 Q. All right. What were your plans for the future at this  
7 time when you're 14? Were you thinking about the future?

8 A. Not terribly so, but I felt like the change from grammar  
9 school to, here we go, we're escalating now, right, I felt  
10 that in the time, but that's it.

11 Q. All right. You said some of your siblings went to  
12 college, some went to the military.

13 A. Yeah. Mike went in the Marines. Dave went in the Navy.  
14 Dave went on -- I think my brother Mike got degrees too. I  
15 don't know where they're -- or he's got at least a degree from  
16 Westwood, I think. And yeah, my sister Lisa, I think she went  
17 in the military too but she washed out, if I remember  
18 correctly, and then she just went to college.

19 Q. All right. Which way were you leaning?

20 A. Oh, I was -- honestly, I don't know which way I would have  
21 landed, but I was probably inclined toward the military.

22 Q. All right. When you ended up in prison -- and we're  
23 jumping ahead -- did you end up taking some college classes?

24 A. Yeah.

25 Q. All right. Now, you're 14. You're getting ready for high

1 school. Who was in your friend group at that time? Who

2 was your -- who were you hanging the most time with?

3 A. You have to be more precise on timing for me, I guess.

4 Q. I'm talking about right before you were arrested, who were  
5 you hanging out with?

6 A. Before I'm hanging out with Mel every day, and we're going  
7 over to Natalie's house just about every day, Natalie and  
8 Denise and hanging out with them.

9 Q. And who is Natalie and Denise?

10 A. My sort-of girlfriend. And she lived about three or four  
11 blocks away.

12 Q. Why do you call her "sort-of girlfriend"?

13 A. Well, because we weren't doing anything, you know. But we  
14 kind of were boyfriend and girlfriend, I thought. Maybe. I  
15 don't know.

16 Q. All right. Had you asked her to a dance?

17 A. Yeah, I did. She accepted. It was an eighth grade,  
18 eighth grade dance for us graduating.

19 Q. All right. I want to turn you to March 25th, 1993. Did  
20 your life change that day?

21 A. Yeah, it did.

22 Q. Where were you that evening?

23 A. On the 25th?

24 Q. Or I guess it would be when you went to sleep on the 24th.

25 Let's talk about that. Where did you end up?

1 A. On the 24th, I was spending the night at Mel's house.

2 Q. Was that uncommon for you to spend the night at Mel's?

3 A. No. I usually spent the night there about three or four  
4 times a week.

5 Q. His house, your house, or what? Explain.

6 A. Yeah, both. Both.

7 Q. Which one were you guys more likely?

8 A. More likely at his house because his parents were more  
9 comfortable with me spending the night there, I guess, than  
10 him spending the night out by my house. His dad was a little  
11 bit more strict, and I didn't have a dad in the house. So I  
12 don't know. That's just how it panned out.

13 Q. And this is a night you've thought a lot about over the  
14 years, huh?

15 A. Yes, it is.

16 Q. What's your memory of what you did that night at Mel's  
17 house?

18 A. We got to Mel's house before 7:00 because 7:00 was his  
19 curfew. And if he didn't get home by then, his dad would be  
20 mad. So we always got home by 7:00. And typically, we would  
21 bring my Nintendo. I had a Super Nintendo, and we were  
22 playing Nintendo or whatever.

23 And so I had my bag. I had my clothes, my school  
24 clothes and, like, some deodorant, a little cosmetics, and my  
25 books. And we had all the Nintendo stuff except the Nintendo

1 console, we didn't discover until we got to his house. So I  
2 got -- I started pulling stuff out the bag and there's no  
3 console. And neither one of us wanted to walk back to go get  
4 it, so we just ended up drawing that night, just getting  
5 pencils and sketching stupid stuff, laying on the floor.

6 Q. What else happened that night?

7 A. Well, what I recall is --

8 Q. And let me be specific on the question. So you're  
9 drawing. Did you get toward bedtime?

10 A. Yeah, yeah. You know, typically we go to bed around  
11 10:00, 10:30. And we had the TV on, but we'd have the volume  
12 low because his parents, they went to work early. And so they  
13 didn't mind us being awake if, you know, we didn't disturb  
14 them. So we'd always have the TV on, the volume low mostly.

15 And then we had the TV on when we were drawing. And  
16 I recall at 10:00 o'clock that Family Feud would come on. We  
17 didn't really watch it but it was on, right. So Family Feud  
18 came on, and we shut off the TV and went to bed.

19 Q. And where are you in the house when you guys go to bed?

20 A. Me, Mel, and his brother are all sleeping in the living  
21 room.

22 Q. Is that how you would usually do it or always do it or  
23 what?

24 A. That's how we would always do it.

25 Q. And who slept where?

1 A. I slept on a couch, and then they had, right at the time  
2 or not -- soon before I was arrested, they had put a bunk bed  
3 in there, and so the two brothers slept on the bunk beds and I  
4 slept on the couch.

5 Q. And where was the rest of the family?

6 A. Rosie had a room in the back of the house by the back  
7 door, and the mom and dad had a room right off of the living  
8 room.

9 Q. Were you close to Eric and Rosie too?

10 A. It's family to me.

11 Q. What do you mean?

12 A. They're family to me. I go over there. That's my family.  
13 That's my other family. I go over there, that's my family.  
14 I'm treated like family. I go in their fridge.

15 Q. All right. What's the next thing you remember after you  
16 fell asleep?

17 A. What I remember is, there was a loud knock on the window  
18 like from a ring, you know. And that wasn't atypical because  
19 Rosie, is Mel's sister, she was like 16, I think, she used to  
20 babysit. And the kid, the kid's parents that she used to  
21 babysit for, when they would retrieve the kid, they'd come in  
22 the middle of the night, whatever, and they'd bang on the  
23 window like that and so, you know, wake up everybody  
24 obviously, but you'd just go back to bed, you know.

25 And so that's what I heard, was the knocking of the



1 ring on the window, and I presumed it was that setup I just  
2 told you, right. So I tried to doze back off.

3 Q. And what was it?

4 A. Well, it persisted. And Mel yelled at Eric to go get the  
5 door. And so Mel ended up going to get the door. And then  
6 the next thing I remember was Mel telling me to get up, that  
7 my mom was here.

8 Q. And just in a nutshell, what did your mom -- and who was  
9 with your mom?

10 A. I got up, and I saw my mom and my brother Mike.

11 Q. And what happened?

12 A. My brother Mike came in there, and he's like, "Where were  
13 you? Where were you?"

14 And I told him -- I was confused, like, "What are you  
15 talking about? You just found me? What are you talking  
16 about," right? So and then my ma, she said that Kasey's house  
17 burned down.

18 Q. And just in summary, what did they -- without going into  
19 specifics, what was the gist of what was communicated to you?

20 A. That they were blaming me, and there's a lynch mob out  
21 there, and they needed to get me out of there to safety.

22 Q. And what did you -- where did your mom and your brother  
23 take you?

24 A. My brother was double-parked. He had a minivan out front,  
25 so we went out there. I grabbed my stuff and I went out

1     there. And we drove, my brother drove my ma home, and then we  
2     went to where my brother lived at. He was staying with  
3     another guy on Hermitage.

4     Q. Who was that?

5     A. His name is Bill Hangst. He was kind of like a brother to  
6     me. My ma raised him too, so...

7     Q. All right. Do you remember how long you were there at  
8     your brother's house?

9     A. I don't know exactly. Maybe an hour, maybe an hour and a  
10    half. I don't know if it was that long. I don't know. I  
11    dozed off, I think.

12    Q. And what happened then?

13    A. There was a knock on the door. I remember -- I don't  
14    remember the knock. I remember my brother telling me to get  
15    up. And I remember sitting up, and there were two guys  
16    standing there, like, plainclothes cops obviously, right. And  
17    so he told me to go with them. So I grabbed my bag, and I  
18    walked out with them.

19               And I don't know what I'm doing. I'm just walking  
20    out. And I just started walking. And I don't know what's  
21    what, so I just started walking toward the alley. I remember  
22    one of them saying, like, something silly about, like, maybe,  
23    "If you don't have any rabbit in you or nothing like that, I  
24    don't want you running down the alley. So come here, come  
25    here."

1           So I don't know. So I rerouted to him, and we went  
2 to his car, put me in the car and drove to 51st and Wentworth.

3 Q. And what happened at 51st and Wentworth?

4 A. We got there and went up a flight of stairs to the second  
5 floor, and they put me in a small little room. They had -- it  
6 was dark. The light wasn't on. They had a bench on one wall  
7 and a desk, is all I remember. And they made me put my bag on  
8 the desk, and then I sat on the bench. And that's how I got  
9 there.

10 Q. All right. Did they start asking you questions about a  
11 fire?

12 A. Well, I was sitting in this room. They left me --  
13 periodically, different guys would could in and out of there  
14 and ask me stuff and they'd go through my bag. And I  
15 remember, I remember one guy went in there. I had a knife in  
16 my bag. I carried a knife.

17 Q. Why did you carry a knife?

18 A. Because of my neighborhood and, you know, just to avoid  
19 conflict and to get away if necessary, you know.

20           So he pulled it out, and he's like --

21 Q. What kind of knife was it?

22 A. It was a kitchen knife. I just got it out of my ma's  
23 kitchen, just a little stick knife.

24 Q. Did you ever have to use it in your neighborhood?

25 A. I never used a knife.

1 Q. All right. So they asked questions about that?

2 A. Yeah. They asked about it, you know. I had it with me.  
3 It's my neighborhood, you know.

4 And then he pulled out -- like, I remember him  
5 pulling out, I had a bottle of cologne in there. And he's  
6 like, "Did you use this to light the fire" or something like  
7 that.

8 And I'm like, "Whatever. I don't know. No, you  
9 know." It's obvious. But anyway, sorry.

10 Q. Did they do anything unusual with your clothes?

11 A. One guy came in, and he asked me to take my shoes off.  
12 And I handed him my shoes, and then he put them up to his  
13 face, the sole. You know, the bottom of the shoe, he put it  
14 up to his face and was smelling them, like, thoroughly, right.  
15 And I thought that was funny. I thought that was weird and  
16 funny, but he did that. He gave me my shoes back, and I put  
17 them on.

18 At one point, I tried to lay down on the bench while  
19 nobody was in -- they weren't in and out of there, like,  
20 frequently. There was, like, little lulls. At one point, I  
21 laid down and I tried to doze off. And somebody came in there  
22 and said something like, "Get up, there's no sleeping in  
23 here," or something, "ain't no sleeping. Sit up." You know,  
24 so that was that.

25 Q. Did they read you your *Miranda* rights?

1 A. Multiple times, yeah.

2 Q. And that's, you have the right to remain silent and all  
3 that?

4 A. Yeah. I thought it was funny.

5 Q. What do you mean, you thought it was funny?

6 A. I was a kid. It was like TV.

7 Q. And did they tell you you had a right to remain silent?

8 A. They did.

9 Q. Did they tell you you had a right to a lawyer?

10 A. They did tell me that.

11 Q. Did you decide to remain silent?

12 A. No.

13 Q. Why?

14 A. I didn't think I had anything to hide. I thought that if  
15 they were going to ask me questions, I'm just talking to them.  
16 I also think that if I don't talk to them, well, then I got  
17 something to hide and they're going to think I had something  
18 to do with this, right. So I thought I would go in there and  
19 talk to them.

20 Q. How about a lawyer? They said you have a right to a  
21 lawyer. Did you say, "I want a lawyer"?

22 A. Why would I need a lawyer? I didn't need a lawyer. I  
23 didn't think I needed a lawyer.

24 Q. Did they start interrogating you?

25 A. Not at that juncture.

1 Q. At some juncture?

2 A. Yeah.

3 Q. And what do you remember about the interrogation? Did it  
4 start cordial?

5 A. There was a lot of interrogations. And yeah, the first  
6 one was, the first -- the beginning of the first one was  
7 relatively cordial where it's, most of the questions are  
8 benign like, what's your name? Where did you go to school,  
9 you know, stuff like that.

10 And eventually, they get to the punch line and  
11 started asking you some more pointed questions, and then you  
12 start answering that stuff. And then they started asking me  
13 about the fire, did I light her house on fire. And I tell  
14 them no.

15 And then immediately it's, like, the room kind of  
16 turns a little bit, shifts a little bit and then now, they're  
17 telling me -- you know, like, "You asked me, I tell you no, I  
18 didn't light the fire."

19 They're like, "Yeah, you did. Just tell us the  
20 truth. You can tell us the truth," you know. Or, "You're  
21 going to tell us the truth eventually, so you might as well  
22 just come out and say -- you know, just tell us what happened.  
23 Tell us the story. How did you do it, you know? Did you use  
24 gasoline? What did you do?"

25 And so I'm telling him, "Look, I didn't have anything

1 to do with this, and that's it." And so I started crying, and  
2 then they left. And they left me in there.

3 Q. Did they come back?

4 A. Yeah. Yeah, they came back.

5 Q. How many times do you think you told them you didn't do  
6 it?

7 A. 30-plus.

8 Q. Did they ever accept your statement that you didn't have  
9 anything to do with the fire?

10 A. No. Any time I told them I didn't do it, they would jam  
11 it right back down my throat, "Yeah, you did. Yes, you did,"  
12 you know, stuff like that and say -- they refused to hear my  
13 voice, you know.

14 "I tell you I didn't do nothing." And they didn't  
15 hear that. They never wanted to hear that. They wanted to  
16 hear what they wanted to hear. So that's how they went.

17 Q. All right. How many times would you say there were  
18 sessions, how many sessions?

19 A. Well, of all of them coming in there and questioning me,  
20 three to five, three to seven. I don't know. At least three  
21 but more than that. They were in and out of there all the  
22 time and kind of doing stuff like that.

23 Q. How long in between them?

24 A. 15, 20 minutes sometimes, maybe 30 minutes sometimes. I  
25 don't know.

1 Q. What would you do --

2 A. I have no chance. I couldn't gauge that.

3 Q. What would you do when you were alone?

4 A. I remember crying a couple of times, then I'd stop crying.  
5 At one juncture, because I had my bag, I pulled out my Trapper  
6 Keeper because I didn't do my homework the night before. So I  
7 usually did my homework in school like last minute, right. So  
8 I didn't do my homework, so I pulled out my Trapper Keeper,  
9 and I started finishing my homework.

10 Q. What was your homework that day?

11 A. I had to do a diagram on aluminum and write, like, a  
12 little paragraph pretending I understood what I was writing  
13 about.

14 Q. And this is an atom, an aluminum atom.

15 A. Yeah, aluminum element, yes.

16 Q. Did you ever get to turn that homework in, sir?

17 A. No.

18 Q. When they -- at any point did you ask to speak to your  
19 mother or your brother or anybody else?

20 A. Yeah. I asked about my mom. And I think I asked if I  
21 could call her, if she was there or something, or I don't  
22 remember exactly how it came out. But I remember them telling  
23 me that, "We called your ma, and she says she don't care what  
24 happens to you." She's fed up with all the stuff that I'm  
25 doing. And so it's, like, I don't know, something like that.



1 And my brother --

2 Q. Did that make any sense to you?

3 A. No. It was just confusion. It's, like, that doesn't make  
4 any sense. So now I just got this question mark floating over  
5 my head, like, I don't understand this.

6 But my brother, they told me he came and left. I  
7 said, "He came and left?" And so again, another weird,  
8 confusing, what does that mean? How do you make sense of  
9 that?

10 Q. Were you free to leave?

11 A. No.

12 Q. At any time, could you have left?

13 A. No, I could not have.

14 Q. What was your understanding of when you were going to  
15 leave?

16 A. I had no idea. I didn't know -- I lost track of what was  
17 going on five minutes ago.

18 Q. All right. Were you able to sleep?

19 A. I tried. I think I dozed off in between, in between the  
20 sessions. I put my arms like this on the long table, and I  
21 rested my head crying. And then I think, I want to say I fell  
22 asleep, yeah.

23 Q. All right. Had you gotten a full night's sleep the night  
24 before?

25 A. No.

1 Q. At that time in your life, how many hours of sleep were  
2 you used to getting?

3 A. Typically, we'd go to bed around 10:00, 10:30 and we  
4 would -- our school started at 9:00, and so we'd, like, wake  
5 up at, like, 8:00 and rush to get over there and just make the  
6 bell. So roughly that's, I guess, 10:00 to 8:30, whatever  
7 that shakes out to.

8 Q. How were you feeling?

9 A. In the police station, I felt -- most of the time I felt  
10 cold. I felt nauseous and kind of shaky, I guess.

11 Q. Had you eaten?

12 A. Super nervous.

13 I don't know. It's my -- how I felt there changed  
14 from moment to moment.

15 Q. Were you handcuffed at some point?

16 A. Yeah.

17 Q. What did that look like, and how did that affect you?

18 A. I don't remember. I've spent too many years handcuffed to  
19 retrieve that.

20 Q. You mean since you went to prison?

21 A. Yeah.

22 Q. Do you remember going to the bathroom handcuffed in the  
23 police station?

24 A. I do.

25 Q. What was that like?

1 A. There was this guy, he -- I don't remember how it  
2 initiated, but I had to go to the bathroom. So I walked with  
3 this guy, and we went to the bathroom. I don't remember how  
4 it was. It was super awkward. He was standing too close to  
5 me, and it was a little too hard to pee when somebody is,  
6 like, that close to you, you know, but I managed.

7 And on the way out or on the way back to the  
8 interrogation room, we stopped at a Xerox machine, and he  
9 asked me to Xerox my hands. I put them up there and he pushed  
10 the button, and the thing came out. And then he looks at it.  
11 He's holding it up to me and he's like, "Aha, this proves  
12 you've got lead on your hands from the gasoline that you were  
13 handling."

14 And what came to my mind was pencil lead because we  
15 were drawing. And so I'm like, "I can explain that. I know  
16 this is a Xerox machine and I know what you're telling me is  
17 crazy but -- okay, but if there's anything like that, we had  
18 maybe graphite on my hands. I don't know. We were drawing.  
19 That's it. I don't know nothing about no lead."

20 Q. Was it confusing to you?

21 A. Yeah. It made no sense because I know that that's just a  
22 Xerox machine. I've seen one of those before. And he's  
23 convincing me that that, the fact that my hand showed up  
24 equals I used gasoline, and that did not make sense to me, no.

25 Q. Did they tell you anything else that didn't make sense to

1 you trying to say that you were guilty?

2 A. They told me a lot of stuff that didn't make sense to me.  
3 Everything they told me didn't make sense, to be honest with  
4 you, yeah.

5 Q. Did they tell you they had witnesses that were...

6 A. At one point, they told me a little old lady said she saw  
7 me do it and that why would a little old lady lie. And that's  
8 just, you know, patchworks into all the other nonsense they  
9 had going on.

10 Q. Did they make any threats about what would happen to you?

11 A. It's not -- it's hard to describe that. It's like yes and  
12 no, right. So nobody said, "I'm going to hurt you or else,"  
13 right, or nobody balled a fist up or nothing, but there was  
14 reference to the electric chair.

15 A guy said, you know, "You can get the electric  
16 chair." A guy said, "You can go to -- you can go to, like, a  
17 home for the criminally insane where they put little firebugs  
18 like you." That's what they told me. So that's not a threat,  
19 but it's kind of like a threat, right? So, yeah, that's what  
20 happened.

21 Q. Were they saying that you contradicted yourself when they  
22 were interrogating you?

23 A. All the time. They had all these notepads, so they're  
24 taking notes as they're talking to me, and I'm answering  
25 questions, right. And so-and-so would pop up, "Well, five

1 minutes ago, you said you and Mel were this."

2 And I'm like, "I know I didn't say that," you know.  
3 I said, "I didn't say that."

4 And they kept -- then this guy would work with him,  
5 like, "Yeah, I got it here too. You did say that." And so  
6 now, you know, that's a thing, right. So...

7 MR. LOEVY: Let me show you Plaintiff's Exhibit 126,  
8 the second page.

9 Permission to publish this, your Honor. I think we  
10 talked about this being in evidence.

11 THE COURT: Any objections other than previous ones?

12 MR. NATHAN: No.

13 THE COURT: All right. Then 126 is allowed.

14 (Plaintiff's Exhibit 126 received in evidence.)

15 BY MR. LOEVY:

16 Q. How old were you in this picture, Adam?

17 A. This was taken Christmas of '93, so I'm 14 and nine  
18 months.

19 Q. So how long after your interrogation was this taken?

20 A. Nine months after my interrogation.

21 Q. This is after you've already been incarcerated?

22 A. I've been locked up nine months here.

23 Q. Is that a -- what's that background? Is that real or  
24 fake?

25 A. That's a real tree, I think.

1 Q. And that's at the Chester where they --

2 A. That's at Chester Mental Health, yeah.

3 MR. LOEVY: Showing you 127.

4 THE COURT: Okay. Any objection other than previous  
5 ones?

6 MR. LOEVY: These are the same ones that we talked  
7 about, your Honor.

8 THE COURT: Right. So any objection other than  
9 previous ones?

10 MR. NATHAN: No, your Honor.

11 THE COURT: All right. Then that's allowed too.

12 (Plaintiff's Exhibit 127 received in evidence.)

13 BY MR. LOEVY:

14 Q. Can you identify who is in that picture and how old he is?

15 A. Me or the other kid?

16 Q. You.

17 A. Okay. That's me. And that's the year before when I was  
18 in Green Bay.

19 MR. LOEVY: And showing you Plaintiff's Exhibit 128.  
20 The same protocol, your Honor.

21 THE COURT: Yes. Any objection other than previous  
22 ones?

23 MR. NATHAN: No, your Honor.

24 THE COURT: All right. 128 is allowed.

25 (Plaintiff's Exhibit 128 received in evidence.)

1 BY MR. LOEVY:

2 Q. Which one are you?

3 A. I'm the one on the far right, the good-looking one.

4 Q. That one?

5 A. Yeah.

6 Q. And these are cousins or friends?

7 A. Oh, those are the kids I was living with. These are the  
8 guys that I was living with up there.

9 Q. All right. So that's before the interrogation too?

10 A. Yes. That's about a year before.

11 Q. So you would have been how old?

12 A. 13.

13 MR. LOEVY: And showing you this picture, this is --  
14 what's the exhibit number on this one?

15 MS. WANG: It should be on there.

16 MR. LOEVY: I've got the wrong one. I'll show you  
17 that one in a bit.

18 BY MR. LOEVY:

19 Q. You're being interrogated. You were an adult or a child,  
20 sir?

21 A. I was a kid, yeah. I was a kid.

22 Q. And did they give you anything to eat or drink?

23 A. At the end -- well, during, I got coffee that I remember.  
24 Brown, one of the guys brought me coffee a couple times. And  
25 at the end after they had got the statement, they brought me

1 some -- some McDonald's from across the way. It was one of  
2 those weird seasonal things like a McRib or something. I  
3 don't know.

4 Q. That was before or after you confessed?

5 A. This would have been after the end of the statement stuff.

6 Q. All right. How did the coffee make you feel?

7 A. I don't -- I couldn't differentiate that. I was nervy  
8 anyway. It may have made me possibly more nervous. I don't  
9 know.

10 Q. All right. When -- as the hours went on, were they ever  
11 willing to accept your statement that you were innocent?

12 A. No.

13 Q. At any point?

14 A. No. They never typed that one up.

15 Q. And did you consider them authority figures?

16 A. They were cops. These guys, yeah, these guys were  
17 serious.

18 Q. Did you think you were going to get out of there?

19 A. Yeah.

20 Q. Did they tell you anything at some point that -- to  
21 persuade you to confess?

22 A. Yes.

23 Q. Tell the jury what.

24 A. One guy said --

25 Q. Which guy?



1 A. His name was Nick Crescenzo, and it was just me and him in  
2 the big interview room. He sat next to me, and he told me, "I  
3 believe you that you didn't do it, but you're going to have to  
4 give us something. You've got to tell us something. And, you  
5 know, if you say you did it then, whatever, I'll take you  
6 home, drop you off."

7 Q. Drop you where?

8 A. Specifically, he said he'd drop me off in front of my  
9 school because we were in the school hours. I thought home  
10 but he saw, "Oh, no, we're in school hours. I could drop you  
11 off in front of your school."

12 Q. All right. When you say "Crescenzo," is this someone you  
13 had to interact with over the years?

14 A. He was one of the guys asking questions along with  
15 everybody else.

16 Q. What do you remember about him --

17 A. He's the guy that did the Xerox.

18 Q. What do you remember about him physically all these years  
19 later?

20 A. He was big, tall, and maybe salt and pepper hair maybe.

21 Q. All right. When he said he would drop you off at school,  
22 what did you have to do to get dropped off at school?

23 A. All I had to do was say I did it.

24 Q. And so how did it go down?

25 A. I said, "I didn't do it."

1           He said, "All you've got to do is say you did it,  
2    though."

3           I said, "Okay. I did it."

4           He said, "Well, how did you do it?"

5           And I said, "I didn't, you know."

6           And he's like, "Well, we'll make something up, you  
7    know."

8           And I don't remember exactly how that unfolded, but I  
9    started talking, and he says, "Hold on. I've got to go get  
10   somebody." So he goes out, and he walks through the door and  
11   then comes back and a couple other people come in, and then  
12   we're in that room.

13   Q. Do you beat yourself up now for being that stupid?

14   A. I don't now, but I did for the majority of my life, yeah.

15   Q. Can you explain?

16   A. I felt like -- I felt like I let them do that to me  
17   because I wasn't smart enough or I wasn't shrewd enough or I  
18   thought I was smart enough to handle whatever. And all my  
19   life, I sat there and I thought that if I don't let them -- if  
20   I don't sign then that I don't go to jail and I don't lose my  
21   life. And so they tricked me, and I wasn't smart enough to  
22   stop them.

23   Q. Can you --

24   A. So, yeah, I beat myself up over that my whole life, but I  
25   was a kid. In retrospect, I forgive the kid because the kid

1    couldn't have resisted them guys. Those guys were serious.  
2    It ain't no resisting them guys. So yeah, I forgive the kid.  
3    I don't hold that anger no more, but I did it. That was a lot  
4    of pain for me for a long time.

5    Q. All right. We only have 15 more minutes this afternoon,  
6    so I'm going to jump ahead a little bit. Where did they take  
7    you after you said, "Fine, I did it," and gave the statement?

8    A. I went to the juvenile temporary detention center on 1100  
9    South Hamilton.

10   Q. How many kids are in the juvenile detention center?

11   A. 6-, 700.

12   Q. Describe what it's like coming into that place.

13   A. When the squad car takes you there, you're at street  
14   level, and then the road dips at a 45, and so now you're kind  
15   of going down underneath the street, you know. And it comes  
16   to a big door. And then they hit the horn. And then this  
17   door opens, goes up, and then you go underground underneath  
18   the Audy Home.

19               And it's like a dark underground garage, unfriendly,  
20   "you might get mugged" kind of area, you know. And you go in  
21   there, and you go through the intake.

22   Q. Now, you thought you were going -- where did you think you  
23   were going to go after you said what they wanted?

24   A. I thought -- well, after all the interrogation stuff, I  
25   thought I was going to go home. I thought I was going to call

1 my ma to come pick me up.

2 Q. And what happened?

3 A. The youth officer brought me down to his office. I  
4 presume it's his office. And I gave him the phone number of  
5 my ma's -- or I don't remember what number. I think it was my  
6 mom's phone number. And I watched him dial, and he only  
7 dialled six numbers.

8 And I'm watching him. He doesn't dial the last  
9 number. And he holds it up. He's like, "Oh, nobody is home,"  
10 and he hung up the phone. "I guess you got to go to the Audy  
11 Home." And I went to the Audy Home, the juvenile jail.

12 Q. All right. Were you one of the older or younger kids when  
13 you got to the juvenile jail?

14 A. I was one of the youngest if not the youngest.

15 Q. Most of the kids were 16?

16 A. 15, 16, some 17, sometimes 18. They got some guys,  
17 they've got warrants and they're adults now, but they got  
18 juvenile warrants, and they put them in there too sometimes.

19 Q. And were there many 14-year-olds or just barely  
20 14-year-olds?

21 A. No.

22 Q. How big were you? Have you seen the arrest report there?

23 A. I don't know. I was little. I wasn't big.

24 Q. Would you contest 5, 3, 110 pounds?

25 A. Sounds about right.

1 Q. Were there big teenagers in that jail with you?

2 A. Yes.

3 Q. How big?

4 A. 6, 5, 380.

5 Q. All right. Were you trying to be interacting with them?

6 A. No. No.

7 Q. Did you know anybody in this building?

8 A. Periodically -- I didn't know anybody going in, but  
9 periodically sometimes somebody I might know from the  
10 neighborhood might come through on some small, stupid case.

11 Q. Was that often or not very often?

12 A. Very infrequently. Like Mel, Mel caught a case, and he  
13 ended up coming through there at one point when I had been  
14 there for, like, two years.

15 Q. All right. But when you first got there, did you know  
16 anybody there?

17 A. No.

18 Q. Would people size up who is a victim and who's not?

19 A. That's what that environment is. It's all strength and  
20 victimization.

21 Q. All right. We'll talk about that. Did you get a phone  
22 call at some point?

23 A. Yeah. In the intake when they were processing me in, they  
24 gave me a phone call, and I called and I got my mom, and I  
25 talked to my mom.

1 Q. How did that go?

2 A. I was -- I was wondering why she didn't pick me up. I was  
3 confused and trying to figure it out and see what was going  
4 on. And I wanted her to come pick me up from the Audy Home  
5 right now if she could so I can go home.

6 And then what -- apparently, whatever, the courts, I  
7 don't know if the courts were closed or whatever, but you have  
8 to wait until tomorrow and figure it out. So I know I'm  
9 spending the night in the Audy Home which is disconcerting.

10 But and then they're telling me they were in the  
11 police station the whole time or not the whole -- I don't know  
12 how that works, but they were at the station. And then they  
13 got spun around by the cops. And they would go up to talk to  
14 some detective and he would tell them I'm not in the police  
15 station or I'm out in the field.

16 Q. All right. Well, so did that cause you distress?

17 A. When I heard that, that they were in the station, it  
18 bothered me a lot because there's just more lies from the  
19 detectives.

20 Q. All right. Did you -- you thought you were going home  
21 still?

22 A. I thought I was going home, yeah.

23 Q. Okay. At what point did it dawn on you that you weren't  
24 going home?

25 A. I don't know if it was the next day or a couple days

1 later, but my sister had retained an attorney. And I went to  
2 court on one of those -- either the next day or a couple days  
3 later. I can't recall, but I went to court.

4 And when I was in the bullpen, the attorney came to  
5 the back and, you know, I'm -- am I going home? What's going  
6 on, you know? And I'm excited sort of thinking about the idea  
7 of going home.

8 And then he made me face that, no, I'm not going  
9 home. Like, you know, he forcefully made me face that, "No,  
10 this is serious, and you're going to be here," he told me,  
11 "like 11 months."

12 And for me, that was -- that was, like, killing me.  
13 It just deflated -- it didn't compute. But again, he made me  
14 face it directly. And so I just, it defeated me. It broke me  
15 down. It effectively just -- I don't know.

16 Him telling me 11 months, you stretch out this awful  
17 experience and now it just telescopes into infinity now  
18 because 11 months is infinity, and I've got to stay here 11  
19 months? That's forever. "You just told me forever. 'You're  
20 dead,' that's what you told me." And so I became immediately  
21 suicidal.

22 Q. What were -- they put you in a cell, I assume?

23 A. Yeah.

24 Q. And what were the cells like?

25 A. They had brick walls. The exterior wall facing outside to

1 the free world, it was like -- it was metal. It had a window  
2 high up. You could only look out the window if you could --  
3 it had a little tiny little ledge. You could do a pull-up,  
4 you know, if you were strong enough and you could kind of look  
5 out, but you really couldn't. Or if you stood on top of your  
6 sink from the back, you could kind of see the Chicago skyline  
7 maybe.

8 Q. All right. Was this a violent place, Adam?

9 A. Extraordinarily.

10 Q. What was the attitude of the kids?

11 A. Everybody was -- everybody was just fighting or assaulting  
12 or taking advantage or all kinds of bad stuff, man.

13 Q. And if someone attacks you, what are you supposed to do?

14 A. If you're smart, you're going to fight back real hard.

15 Q. Why is that?

16 A. Because if you don't fight back real hard, then you're on  
17 the slippery slope of being the guy that doesn't fight back.

18 Q. And then what happens?

19 A. Well, you're going to get taken advantage of and that's  
20 just -- you're going to get extorted, they're going to beat  
21 you, or they're going to rape you.

22 Q. And were you someone that became a target?

23 A. Yeah.

24 Q. Why did you become a target?

25 A. I was little. I was little. I was a little -- I was a



1 little kid compared to everybody else. I'm little. I don't  
2 know. I stood out because I'm white. I'm not in a gang.

3 Q. And what were the gangs in the juvenile center?

4 A. Primarily like GDs, Vice Lords, Kings, and all those,  
5 their little small associate gangs.

6 Q. When you said you stood out because you were small, and  
7 also was there a lot of white people in the jail at the time?

8 A. No.

9 Q. How many were there out of the 700 kids?

10 A. Out of 700 kids, I don't think it ever really ranged more  
11 than ten, five to ten.

12 Q. All right. And you said that sometimes kids would look to  
13 victimize kids. Why would kids do that?

14 A. Not sometimes. That was the way it worked.

15 Q. Why did kids want to victimize other kids?

16 A. Kicks and giggles and being sadistic. And it is the  
17 nature of the environment. It's just a bad, real bad *Lord of*  
18 *the Flies* environment.

19 Q. Were you attacked?

20 A. Yeah.

21 Q. How often were you attacked?

22 A. Very often.

23 Q. And what would happen, you know? How would a fight start?

24 A. Any number of ways. Traditionally it's, I don't know,  
25 somebody is -- like, you caught somebody's eye, and it's time

1 to put you in that window of making a decision. You know,  
2 it's either --

3 Q. Do you remember your first --

4 A. I had to hesitate because I didn't want to swear right  
5 there, so sorry.

6 Q. Do you remember the first time you were attacked?

7 A. Yeah.

8 Q. What, tell the jury.

9 A. We were sitting at dinner. There's four people to a  
10 table. And this guy was sitting across from me, and he was  
11 bigger. He was 16. And he had just got sentenced. He was a  
12 juvenile sentenced to juvenile, not as an adult.

13 So he got sentenced, and that was big. That's big in  
14 the juvenile thing. If you got sentenced as a juvenile and  
15 you're going down to the joint, it's a big thing so -- for us,  
16 for the little kids, you know, because the Audy Home, the  
17 juvenile jail, it's bad, but St. Charles was worse. And so we  
18 all knew that. That was like, it was way worse there. So the  
19 guys that were going there, they were more intimidating. They  
20 were only there for a couple more days before they get shipped  
21 out. So he was one of those guys.

22 So he's sitting across from me. And he said  
23 something like, "Give me the" -- they gave us these  
24 prepackaged, it was like two oatmeal cookies in a plastic, you  
25 know. And they gave it to us with dinner. And he's like,

1 "Give me those cookies, white boy."

2 And I was like, "No," and whatever. And I don't  
3 remember exactly. But it was like, "No," right. And he kept  
4 insisting I give him the cookies.

5 And another guy that was sitting at the table, this  
6 Mexican guy I was hanging out with, he had been in the Audy  
7 Home two years, and he was wiser than me, and he was just a  
8 nice guy. And so maybe it wasn't the right move, but I said,  
9 "If you want one of my cookies," and I threw the cookies over  
10 there.

11 And the black guy, the kid, he -- we had these  
12 plastic cups, these hard plastic cups that we -- that we drink  
13 milk out of. And so he kind of held it in his hand, and he's  
14 like, "I'll hit you in the face with this."

15 And I didn't really regard that serious, but next you  
16 know, I got hit in the face with this, this hard plastic cup.

17 Q. How bad was the injury?

18 A. Oh, it was -- it was, it immediately closed my eye, the  
19 whole side of my face. And so then we got to fighting. It  
20 didn't take me out, got to fighting, and that was it.

21 Q. And why did you fight him?

22 A. Because he just struck me and he tried to punk me.

23 Q. All right. Were there other incidences where you got  
24 attacked?

25 A. Yeah.

1 Q. How often would you say you got attacked?

2 A. Well, you get attacked and then, you know, an attack  
3 usually develops into a fight if you survive the attack. So  
4 you get into -- that's how they would classify it, as a fight.  
5 So then you go into the hole for a couple of days and then you  
6 get out. It's like three days. You go in there for three  
7 days, they let you out, and then you come back out, you know.

8 So you might, maybe two or three days of mingling and  
9 then another situation. So about every three days or  
10 something, some situation would develop, and that would be it.

11 Q. Now, you grew up in a neighborhood where people got in  
12 fist fights, right?

13 A. Yeah.

14 Q. And you grew up with brothers who were bigger than you?

15 A. Yeah.

16 Q. Your brothers sometimes knock you around too?

17 A. Yes, they did.

18 Q. Was this different?

19 A. Yeah. This was -- these guys would have killed you if  
20 they had the opportunity to kill you. Yeah, it was much  
21 different. Brothers popping you on the head for trying to  
22 cross the street or something stupid when you're little,  
23 that's one thing, but somebody hitting you with a weapon, you  
24 know, that's a totally different ball game.

25 Q. All right. Did you have people trying to take your

1 clothes, different parts of your clothes --

2 THE COURT: Yeah, let's break here --

3 MR. LOEVY: All right.

4 THE COURT: -- and you can resume that line of  
5 questioning.

6 Ladies and gentlemen, I'm going to give your daily  
7 affirmation. Please do not research the case, not the law or  
8 the facts. Don't discuss the case, not even amongst  
9 yourselves. You have to wait until the very, very end of the  
10 case for that.

11 As I said earlier, feel free to get to know each  
12 other. You can ask Mr. Peebles who is your favorite *American*  
13 *Idol* contestant, I think you mentioned during jury selection,  
14 or ask Ms. Zeitz what it's like to live near Six Flags and  
15 Gurnee, but don't talk about the case. All right. And please  
16 remember to take the south bank of elevators. I will see you  
17 tomorrow morning.

18 All rise.

19 (Proceedings heard in open court. Jury out.)

20 THE COURT: You can step down for the moment.

21 Do you have anyone else lined up in case you finish  
22 with Mr. Gray tomorrow?

23 MR. LOEVY: Yes. We told defense counsel that we  
24 absolutely -- before we leave court today, we'll tell them our  
25 backup.

1 THE COURT: Okay. Just when you figure that out,  
2 shoot an email to the proposed order account too.

3 MR. LOEVY: We will do that.

4 And, your Honor, we haven't talked about it, but I  
5 assume we're going to have an understanding where we always  
6 give each other notice the day before of the witnesses who are  
7 going to testify so nobody is surprised.

8 THE COURT: Yes, you should be doing that.

9 All right. Thanks.

10 (Proceedings adjourned from 1:47 p.m. to 8:45 a.m. on May  
11 10, 2023.)

12 \* \* \* \* \*

13 C E R T I F I C A T E

14 I, Judith A. Walsh, do hereby certify that the  
15 foregoing is a complete, true, and accurate transcript of the  
16 proceedings had in the above-entitled case before the  
17 Honorable EDMOND E. CHANG, one of the judges of said court, at  
18 Chicago, Illinois, on May 9, 2023.

19

20 /s/ Judith A. Walsh, CSR, RDR, F/CRR June 13, 2023

21 Official Court Reporter

22 United States District Court

23 Northern District of Illinois

24 Eastern Division

25